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Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler, Alternate Judge

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

**Public
And Confidential Annexes A, B, C and D**

Public Redacted Version of the "Corrected Version of the 'Yekatom Defence Final Trial Brief', ICC-01/14-01/18-2737-Conf, 15 November 2024", ICC-01/14-01/18-2737-Conf-Corr, 6 December 2024

Source: Defence for Mr. Alfred Rombhot Yekatom

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I. INTRODUCTION

'Don't be afraid. I've come to save you. I'm not the enemy of the Muslims.'
Mr. Alfred Rombhot Yekatom, January 2014¹

1. In October 2013, the UN Special Advisers on the Prevention of Genocide and on the Responsibility to Protect CAR, expressed deep concerns over the escalating crisis. They urgently appealed to national authorities to protect civilians from imminent atrocity crimes and restore law and order. Criticising the authorities' failure to prevent further abuses and the international community's inaction, they highlighted a situation that was rapidly descending into chaos. CAR was spiralling into a humanitarian catastrophe, described by witnesses as 'unbearable' and 'heartbreaking'. The images, videos, and testimonies captured only a fraction of the abandonment and suffering endured by civilians.
2. Against this backdrop, and in the face of persistent inaction from both the international community and national authorities, Mr. Yekatom answered the call to protect the civilian population as a whole and to prevent further atrocities and human rights abuses. This was not an act of rebellion; it was a response to a profound moral and professional duty in light of the slow pace of international intervention.
3. As a FACA soldier, Mr. Yekatom took up arms to defend the population from enemy forces and mitigate escalating local community tensions. He did so with full commitment to his military training and respect for IHL principles, ensuring that the civilian population – including the Muslim population – was protected from the harsh reality of war and that the Muslim population knew they could trust his intentions. Following the resignation of Djotodia, Mr. Yekatom remained steadfast in his efforts to restore peace and reconciliation in CAR – willing to work with all entities who shared his goal: to achieve peace, restore security to CAR and liberate its people.

¹ D29-5014: T-257, p. 18, lines 21-25.

II. GENERAL EVIDENTIARY CONSIDERATIONS

A. Procedural assessments

1. Scope of charges

4. The decision pursuant to Article 74 must not exceed the facts and circumstances described in the charges and any amendments to the charges.² Reference must be made to the Confirmation Decision which sets out the statement of the facts ‘including the time and place of the alleged crimes, which provides a sufficient legal and factual basis to bring the person or persons to trial’.³ Where the parameters of the confirmed charge are set out in specifically listed acts which form part of the facts and circumstances described in the charges, then the scope of the relevant charge is limited to the individual acts confirmed.⁴ Individual acts which were not confirmed fall outside the scope of the charge.⁵ Where the confirmed charge is framed more broadly – in that the Confirmation Decision explicitly does not frame the charge as a specific incident or an aggregate of acts – then other acts which were not explicitly mentioned in the Confirmation Decision must fall within the specific parameters of the confirmed charge and must be proven beyond reasonable doubt.⁶
5. The confirmed charges as set out in the Confirmation Decision encompass the allegation that there was a ‘widespread attack conducted by the Anti-Balaka, including Yekatom’s group, between September 2013 and December 2014, 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 a criminal policy to primarily target the Muslim population in Bangui and in western CAR Prefectures in retribution for Seleka exactions’.⁷ In this regard, the scope of the policy is to be read in the context of paragraph 64 of the Confirmation Decision which emphasises that it was the Muslim population that was targeted and that this was ‘[b]ased on their religious or ethnic affiliation, they were perceived as collectively responsible for the crimes allegedly committed by the Seleka, complicit with, or supportive of the Seleka’.⁸ This understanding of the confirmed policy is consistent with PTC II’s finding that the objective to oust the Seleka regime was legitimate i.e. that the criminal policy does not concern the targeting of Seleka forces. This is

² Article 74(2).

³ RoC 52(b).

⁴ ICC-01/04-02/06-2359, para. 39; ICC-01/05-01/08-3636-Red, para. 111; ICC-01/05-01/08-3636-Anx2, para. 25; ICC-01/04-01/06-3121-Red, para. 123; ICC-01/04-01/06-2205 OA16, fn. 63. See also Chambers Practice Manual, paras. 56-58, 61.

⁵ ICC-01/04-02/06-2359, para. 39.

⁶ ICC-01/04-02/06-2359, para. 40; ICC-01/05-01/08-3636-Anx2, para. 27.

⁷ ICC-01/14-01/18-403-Conf-Corr, p. 107.

⁸ ICC-01/14-01/18-403-Conf-Corr, para. 64. It is further noted that the operative part of the Confirmation Decision refers to paragraphs 62-65 of the Confirmation Decision, as well as paragraphs 90-114 of the DCC.

also consistent with the OTP's framing of the criminal policy as referred to in the DCC and the OTP Trial Brief, with the exception that the confirmed charges do not expand the criminal policy to the targeting of Muslims based on their national affiliation.⁹

6. In relation to the specific confirmed charges against Mr. Yekatom, as affirmed by the OTP, the charges 'effectively end with the events taking place in MBAIKI through February 2014'.¹⁰ Each charge is also framed by specifically listed acts. This includes Count 1, in which the alleged direct attack against the civilian population is narrowly framed in relation to Counts 2-6 and 8.¹¹ In relation to Counts 2 and 3, the alleged murders are limited to the individual killings of 'between five and 13 persons, including Hassan Mahamat, at the Boeing market, four Muslim persons in Cattin, and Nina Pascal at the Boeing market, in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013'.¹² Counts 2 and 3 do not refer to any broadly framed incidents.
7. Further, with respect to the alleged direct attack against the civilian population (Count 1), the confirmed charge is set within the notion of 'attack' as set out in the *Ntaganda* Confirmation Decision,¹³ such that there must be a sufficiently close link between acts of violence underlying the 'attack' and the actual conduct of hostilities and that this link 'does not exist when the acts of violence (such as murder, rape, pillage or destruction of property) are committed against civilians that have fallen into the hands of the attacking party or are committed far from the combat area'.¹⁴
8. In relation to the confirmed charges encompassing allegations of forcible transfer and deportation pursuant to Article 7(1)(d) and displacement pursuant to Article 8(2)(e)(viii), the facts are equally specifically framed within set parameters. Counts 4 and 5 are limited to the alleged dislocation of Muslims residing in Cattin and Boeing to PK5 and other parts of the CAR or neighbouring countries 'starting from 5 December 2013 in the context of the attack on Bangui, including Cattin and Boeing, on 5 December 2013'.¹⁵ Similarly, Counts 24 and 25 concern the alleged dislocation of Muslims 'from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the Anti-Balaka's advance through and takeover of villages along the PK9-Mbaïki Axis (including Sekia, Ndangala, Bimon, Kapou, Bossongo, Pissa and

⁹ *Contra* ICC-01/14-01/18-723-Conf, paras. 167, 204, 214, 364, 389.

¹⁰ ICC-01/14-01/18-2643-Conf, para. 6.

¹¹ ICC-01/14-01/18-403-Conf-Corr, p. 104, paras. 86-92.

¹² ICC-01/14-01/18-403-Conf-Corr, pp. 104, 106, paras. 87-89. See also ICC-01/14-01/18-572-Conf, paras. 11-12 in which the OTP asserts that the scope of Counts 2 and 3 are sufficiently specified and that the incidents are identified 'within confined temporal and geographical parameters and a number of victims'.

¹³ ICC-01/14-01/18-403-Conf-Corr, fn. 236 which refers to ICC-01/04-02/06-309, paras. 45-47.

¹⁴ ICC-01/04-02/06-309, para. 47.

¹⁵ ICC-01/14-01/18-403-Conf-Corr, p. 105 (emphasis added).

Mbaiki).¹⁶

9. Further, having rejected confirmation of Mr. Yekatom's alleged individual criminal responsibility under Article 28(a), Mr. Yekatom's alleged contribution does not encompass the alleged 'discipline of his Group'.¹⁷ PTC II had expressly excluded this contribution,¹⁸ as initially pled by the OTP,¹⁹ finding that 'the narrative of the relevant events as emerging from the available evidence is such that Yekatom's conduct resulted in the realisation of the objective elements of the crimes, rather than only consisting in the mere failure to prevent or repress crimes committed by other persons'.²⁰ As such, Mr. Yekatom's alleged contribution is limited to the following identified conduct: '(i) structuring, training and equipping his Anti-Balaka elements; (ii) preparing the Anti-Balaka attacks and advances, and participating and leading his group in the execution of these attacks and advances; (iii) issuing orders to Anti-Balaka members, including patently illegal instructions; and (iv) conscripting and/or enlisting children under the age of fifteen years into his group and using them to assist him in the camp-bases, giving orders for them to be stationed at barriers and checkpoints as well as to actively participate in hostilities'.²¹

2. Application and standard of proof

10. The standard of proof – as articulated in Article 66(3) – is applicable to each fact underlying the elements of the crime and form of responsibility, as well as facts which are indispensable for entering a conviction, and other facts which need to be proven beyond a reasonable doubt due to the manner in which the charges were confirmed.²² Under this standard, the OTP's narrative must not only be a reasonable or even the best possible conclusion or explanation of the evidence that is in the case record – it must be the only reasonable conclusion.²³ This standard applies whether the evidence evaluated is direct or circumstantial.²⁴
11. Whilst the assessment of the evidence to be put to proof is to be evaluated in a holistic manner, this does not eliminate the need for a careful scrutiny and rigorous analysis of the individual piece of evidence,²⁵ nor does it relieve the Chamber from its duty to apply the required standard of proof

¹⁶ ICC-01/14-01/18-403-Conf-Corr, p. 105, paras. 129-134 (emphasis added).

¹⁷ *Contra* ICC-01/14-01/18-723-Conf, para. 376.

¹⁸ ICC-01/05-01/08-3636-Red, para. 113.

¹⁹ ICC-01/14-01/18-282-Conf-AnxB1, para. 215.

²⁰ ICC-01/14-01/18-403-Conf-Corr, para. 58.

²¹ ICC-01/14-01/18-403-Conf-Corr, p. 107.

²² ICC-01/04-02/12-271-Corr, para. 124; ICC-02/04-01/15-1762-Red, para. 231; ICC-01/04-01/06-3121-Red, paras. 121-123; ICC-01/04-02/06-2359, para. 40.

²³ ICC-01/05-01/08-3636-Anx2, para. 11; IT-95-11-A, para. 55; IT-01-48-T, para. 15.

²⁴ IT-01-48-A, para. 129; IT-02-60-A, para. 226.

²⁵ ICC-02/11-01/15-1263-AnxB-Red, para. 31.

to any necessary fact,²⁶ or to assess the quality of evidence of subsidiary facts, particularly in relation to circumstantial evidence where the factual basis of the circumstantial evidence is weak.²⁷ Inferences drawn from either direct or circumstantial evidence must be reasonable, narrowly construed and must not be based on a series of inferences.²⁸ This approach is consistent with the principle *in dubio pro reo* which is a component of the presumption of innocence.²⁹ Any ambiguity, doubt or uncertainty must always be ruled in favour of the accused.³⁰

12. As with the burden of proof,³¹ it is also the obligation of the OTP to ensure that its vital evidence is clear and unambiguous. Where an OTP witness whose evidence is vital is able to clarify any ambiguity in that evidence, and where the OTP does not seek to have the witness do so, the inference is available that it did not do so because the evidence would not have assisted the OTP's case.³²

3. Joinder of cases

13. The joinder of the cases against Messrs Yekatom and Ngaissona is subject to the continued application of Rule 136(2) such that it is the duty of the Chamber to consider the case against each accused separately and to consider each count separately.³³

14. Whilst the Defence does not take a position as to the veracity of the OTP's allegations of interference in relation to the Targeted Witnesses,³⁴ the assessment of the credibility of these witnesses should not be prejudicial to Mr. Yekatom insofar as it relates to: (i) any arguments raised by the Yekatom Defence concerning the credibility of the Targeted Witnesses as relied upon by the OTP, and/or (ii) concerns any favourable testimony to Mr. Yekatom even where it is inconsistent with prior statements of the witness in question and in particular raised during the course of examination by the Yekatom Defence.³⁵

B. Evidential assessments

1. Testimonial evidence

a) Hearsay evidence

²⁶ ICTR-99-46-A, para. 172.

²⁷ ICC-01/05-01/08-3636-Anx2, para. 12.

²⁸ IT-01-47-T, para. 311.

²⁹ ICC-01/05-01/08-3343, para. 218; ICC-01/05-01/08-3636-Anx2, para. 5.

³⁰ IT-04-83-T, para. 24; IT-02-60-T, para. 18.

³¹ Article 66(2).

³² IT-96-21-A, para. 452.

³³ ICC-01/04-01/07-307, p. 7.

³⁴ ICC-01/14-01/18-1016-Conf; ICC-01/14-01/18-1588-Conf-Red; ICC-01/14-01/18-2657-Conf.

³⁵ Accordingly, and with reference to Article 67(1)(e) and Article 64(2), the Defence maintains its reliance on the evidence of these witnesses as elicited during direct examination or examination by the Yekatom Defence.

15. Whilst hearsay evidence is not inadmissible or impermissible *per se*, a conviction cannot be entered where the evidence supporting that conviction is based solely on hearsay evidence.³⁶

16. The established principle that hearsay evidence must be treated with caution,³⁷ must also be evident in practice.³⁸ This includes certain conditions to the use of hearsay namely: (i) hearsay evidence is not corroborated by the testimony of other witnesses who rely on the same source of hearsay,³⁹ and (ii) the limited evidentiary value of second or third-hand hearsay must be assessed with due consideration of the impossibility of cross-examining the information source.⁴⁰

b) Tested/untested material

17. Prior recorded testimony introduced under Rule 68(2) cannot be the sole or decisive base for the conviction for a crime as the accused has the right to challenge the evidence grounding his conviction.⁴¹ Although there is no legal impediment to the Chamber's reliance on prior recorded testimony admitted under Rule 68(2) 'to establish individual criminal acts in circumstances in which they are not the direct acts of the accused', this should not be prejudicial or inconsistent with the rights of the accused,⁴² with due regard to the complex nature of this case, which involves issues such as evidence fabrication, insider witnesses, and alleged interference. The Chamber's evaluation of prior recorded testimony introduced under Rule 68(2)(b) or (c) should account for the reliability, consistency, and overall context of these statements within the entire body of evidence.⁴³ The admission of prior recorded testimony under Rule 68(2) does not presume reliability.⁴⁴ In this regard, the Defence requests the Chamber to carefully reexamine the arguments it presented regarding reliability at the time of submission of this material, as the Defence has provided detailed submissions to assist in this assessment.

i) Non-submitted material and withdrawn witnesses

18. Article 74(2) confines the Chamber's consideration to evidentiary materials submitted by the Parties, which have passed the procedural requirements for admissibility. Recalling that the OTP has cited unsubmitted material in written submissions as being part of the case record to support the relevance of other documents,⁴⁵ the Defence emphasises that non-submitted material cannot

³⁶ IT-06-90-T, para. 43; ICC-01/05-01/08-3636-Anx2, para. 8

³⁷ ICTR-99-52-T, para. 97.

³⁸ ICC-01/05-01/08-3636-Anx2, para. 8.

³⁹ IT-04-84-R77.4, para. 64.

⁴⁰ ICC-01/04-02/12-3-tENG, para. 56.

⁴¹ ICC-01/04-02/06-2666-Red, para. 630; ICC-01/05-01/13-1989-Red, para. 25. See also IT-95-5/18, para. 24 and fn. 46.

⁴² ICC-01/04-02/06-2666-Red, para. 629.

⁴³ ICC-02/04-01/15-596-Red, para. 7.

⁴⁴ ICC-02/11-01/15-1263-AnxB-Red, para. 39.

⁴⁵ ICC-01/14-01/18-2313-Conf, paras. 39-50; ICC-01/14-01/18-2326, para. 3 (a).

be relied upon to support the reliability necessary for establishing or corroborating material findings. Moreover, adverse inferences are available in relation to the OTP's efforts to rely on such material in the absence of leading the evidence so as to allow it to be tested.

19. In this regard, the Defence further recalls that the OTP has withdrawn witnesses, including P-2620 and P-2582, following credibility submissions raised by the Defence. In the absence of any justification for doing so,⁴⁶ and noting the timing of withdrawal, it is reasonable to infer that there are systemic issues concerning the reliability of the OTP's case insofar as it concerns Count 29. In particular, the two withdrawn witnesses are implicated in allegations concerning the fabrication of evidence, along with P-2475 who continues to be relied upon by the OTP.

c) Credibility of witnesses

20. The assessment of witness credibility involves various factors that influence the reliability of testimonies.⁴⁷ In this case, the Defence highlights specific elements that warrant caution and may significantly impact the Chamber's evaluation.

i) Language

21. A key component in assessing the quality of a witness's account depends on understanding their exact words. This requires, amongst other things, accuracy in translation and cultural awareness of specific terms used.⁴⁸ Additionally, it is, to some extent, a subjective process influenced by the witness's vernacular. To minimise any ambiguity, the Defence has relied on the transcripts and statements which are recorded in the witness's original language throughout this brief. Full reference to the transcripts is contained in Annex B.

ii) *Inter* and *intra* inconsistencies

22. The credibility of a witness is assessed with consideration of various factors, including the coherence of the testimony, not only in regard to internal inconsistencies within the testimony itself but also inconsistencies with the broader case record.⁴⁹ Such an approach is essential to ensure a reliable and fair evaluation of the evidence. The coherence between a witness's in-court testimony and their prior statements regarding the same facts, as presented in the evidence at trial,

⁴⁶ For P-2582, see ICC-01/14-01/18-1789-Conf-Exp-Corr with confidential *ex parte* annex A; for P-2620, letter [ARY-2023-0268] from the Defence to the Prosecution sent on 3 July 2023 at 18:05 and responses from the Prosecution refusing to provide justification received on 14 July 2023 at 16:21 and 24 July 2023 at 16:01; see also for P-2511: ICC-01/14-01/18-1791-Conf and ICC-01/14-01/18-1814-Conf-Exp.

⁴⁷ McDermott (2024), pp. 105-110; Chlevickaite et al., (2020), p. 185; Agirre Aranburu et al., (2020), pp. 117-229-231.

⁴⁸ Combs (2010), Chpt. 3.B.

⁴⁹ ICC-02/04-01/15-1762-Red, paras. 255-256.

is relevant for this assessment.⁵⁰ When discrepancies arise, the Chamber must take into account the content and circumstances of the prior statement, including its context, purpose, and the level of detail expected.⁵¹ Additionally, any explanations offered by the witness for these discrepancies during their testimony before the Court should be carefully considered.

23. To assist the Chamber in this evaluation, the Defence has adopted these principles in its own evidential approach and provides in Annex A a reference table which set outs relevant pinpoint citations and procedural categories as related to each witness.⁵² This is designed purely as a practical tool to assist the Chamber and all parties.

iii) Reporting of false information during conflict

24. The credibility of a witness is inextricably linked to the source, identity and reliability of the underlying information. Throughout the trial, it became apparent that many people in CAR relied on external sources, such as radio broadcasts, Facebook posts and other informal channels, to obtain information.⁵³ However, many of these sources disseminated inaccurate⁵⁴ or biased information, and even deliberately circulated alarming false content to exploit tensions within the population.⁵⁵

25. A witness's credibility is substantially undermined if their testimony relies on questionable sources. The Chamber should examine the origins of information provided by witnesses and be aware of any potential unreliability or bias. The Defence has applied this approach in its reliance on such material and assessment of the credibility of witnesses.

(a) *Intelligence notes (bulletins de renseignements)*

26. A number of intelligence notes were used at trial and put to witnesses. However, whilst intelligence notes may denote a sheen of reliability by virtue of the classification, this is not the case in these proceedings. The flawed methodology used to create these intelligence notes undermines their credibility. Personal incentives, such as financial rewards, often motivate false information,

⁵⁰ ICC-02/04-01/15-1762-Red, para. 256.

⁵¹ ICC-02/04-01/15-1762-Red, paras. 255-256.

⁵² By order of witness appearance, the categories of the reference table are: OTP's expected relevance of testimony (based on their summaries); mentions of witness in the OTP Trial Brief; mentions of the witness in the Confirmation Decision; statements and associated documents submitted into evidence; transcripts of the testimony; submitted items commented on by the witness; references to the witness in other testimonies; intra-inconsistencies; inter-inconsistencies; OTP witnesses mentioned during witness testimony; Defence witnesses mentioned by the witness; and related items submitted via Defence BTM. The transcripts are cited by number, language, and timestamp, making them easily searchable in both languages. The Annex provides pinpoint references and as such does not develop submissions.

⁵³ See for example P-2084: [CAR-OTP-2094-0968-R02](#), para. 52.

⁵⁴ See for example P-1193: T-126, p. 25, lines 16-26, p. 27, lines 19-23, p. 33, lines 1-5, 18-27 where the witness is presented with a press article reporting on Mr. Yekatom missing one leg. See also [CAR-OTP-2001-4333](#).

⁵⁵ P-0889: T-108, p. 85, lines 16-24, p. 88, lines 1-5; P-1193: T-126, p. 25, lines 16-26, p. 27, lines 19-23, p. 33, lines 1-5, 18-27.

compromising report accuracy. Furthermore, inadequate verification processes leave these notes based on unverified information, challenging the authenticity of the data they convey.⁵⁶ The reliability of these intelligence notes is compromised by systemic corruption within the intelligence-gathering process. The common practice of fabricating reports for financial gain or personal motives raises serious doubts about the authenticity and accuracy of the information, as highlighted by the former Prime Minister of CAR in his testimony.⁵⁷

27. The reliability of the intelligence notes is severely compromised by deficiencies in accuracy and verification, as highlighted in witness testimonies.⁵⁸ CAR political figures indicated that these notes largely relied on ‘radio trottoir’ (hearsay),⁵⁹ making source verification challenging. Recipients of these documents failed to verify the information before sharing it further,⁶⁰ and the intelligence was acknowledged as unreliable and requiring additional scrutiny.⁶¹ Awareness of the potential inclusion of false information in these notes was also expressed.⁶² Given systemic issues leading to unverified and potentially inaccurate content, the Chamber should view these notes and related witness testimonies with caution, recognising their limited probative value due to significant risks of misinformation and verification flaws.

(b) Radio

28. Witnesses have testified that during the events, the population relied heavily on radio broadcasts to obtain information.⁶³ However, it must be considered that the radio was not a reliable source of information at the time. The evidence shows that radio broadcasts were subject to manipulation and bias, influenced by the different interests of conflicting parties, and were also subject to censorship.⁶⁴ This manipulation compromised the reliability of the information, as various groups aimed to control the narratives being disseminated. For instance, a witness described how the Seleka actively controlled the content aired on Radio Centrafrique, using the platform to disseminate information that aligned with their objectives.⁶⁵

⁵⁶ ICC-01/14-01/18-2128-Conf, pp. 12-13.

⁵⁷ P-0291: T-053, pp. 13-14; TCV-0952: T-251, pp. 43-44.

⁵⁸ See P-0876: T-085, pp. 69-70 where P-0876 testified that the content of two intelligence notes ([CAR-OTP-0080-0821](#) and [CAR-OTP-0080-0840](#)) is inaccurate with the events. See also D30-4914: T-302, p. 73, lines 7-20.

⁵⁹ P-0876: T-088, p. 42, lines 18-25.

⁶⁰ TCV-0952: T-251, p. 42, line 16 to p. 43, line 1.

⁶¹ TCV-0952: T-251, pp. 43-44.

⁶² TCV-0952: T-251, p. 45, line 23 to p. 46, line 2.

⁶³ P-0475: T-091, p. 5, lines 25-28; See for example P-2354: [CAR-OTP-2105-0991-R03](#), para. 28, where P-2354 indicates that ‘[he] heard everything [he] know about the Anti Balaka through radio RFI’. See also P-0876: T-085, p. 43, lines 14-17.

⁶⁴ P-0888: T-121, p. 17, lines 2-12; [CAR-OTP-2055-1987](#), p. 2071; [CAR-OTP-2001-3332](#), p. 3345; [CAR-OTP-2110-0911](#), p. 0913; P-1193: T-126, p. 25, lines 16-26, p. 27, lines 19-23.

⁶⁵ P-2084: [CAR-OTP-2094-0968-R02](#), para. 28; see also para. 35 where the witness describes how the Seleka killed a journalist in Bambari. See also P-2377: [CAR-OTP-2108-0609-R02](#), para. 17. See [CAR-OTP-2001-3068](#), p. 3092.

29. Furthermore, the radio was used as a tool to spread fear among the population⁶⁶ through unverified rumours and exaggerated claims, commonly known as ‘radio trottoir’ or street gossip.⁶⁷ The circulation of such hearsay as news, without verification, contributed to the spread of misinformation, which often turned out to be false when later examined.⁶⁸ This deliberate dissemination of alarming content was a tactic to manipulate the population, rather than offering factual and balanced information.
30. These problematics in the reliability of radio broadcasts were also accentuated by the difficult conditions in which journalists operated. With frequent looting of radio stations and threats directed at independent journalists,⁶⁹ the ability of media personnel to work effectively was severely compromised. Journalists were often unable to venture into the field to verify information due to security concerns, further limiting their capacity to ensure the accuracy of what was reported.⁷⁰ The limited availability of resources and ongoing targeting of media facilities hindered the capacity for thorough fact-checking, forcing journalists to rely on hearsay without proper verification.⁷¹
31. As such, great caution should be exercised in assessing the evidence of witnesses who based their accounts on what was heard over the radio.

2. Documentary evidence

a) Telecommunication-related evidence

i) Attribution

32. Expert D30-4864 produced a list of attribution factors relevant to potential phone ownership but not necessarily user at the time of call.⁷² The strength of the attribution requires an assessment of these factors and corroboration of various factors is required.⁷³ Indirect attribution occurs when there is an association.⁷⁴ The Chamber must exercise caution in assigning probative value to the OTP's proposed phone attribution due to several limitations. First, frequent sharing of handsets and SIM cards, as evidenced in contemporaneous videos, complicates attribution analysis and

⁶⁶ P-0475: T-091, p. 6, lines 15-21; [CAR-OTP-2081-0496](#), p. 0545; [CAR-OTP-2110-0911](#), p. 0913.

⁶⁷ P-0475: T-091, p. 6, lines 12-14; P-1521: T-082, p. 62, lines 14-18.

⁶⁸ P-0475: T-091, p. 6, lines 15-21.

⁶⁹ See [CAR-OTP-2001-3068](#), p. 3092; P-0889: T-111, p. 14, lines 15-19; P-2133: [CAR-OTP-2093-0267-R02](#), p. 0272, para. 44; D30-4496: T-289, p. 31, lines 4-8; [CAR-OTP-2055-1987](#), p. 2102; [CAR-OTP-2001-3332](#), p. 3345.

⁷⁰ P-0475: T-091, p. 7, lines 12-19; [CAR-OTP-2001-3068](#), p. 3092.

⁷¹ P-0475: T-091, p. 8, lines 2-6, p. 9, lines 11-15; P-0475: [CAR-OTP-2104-0116-R03](#), para. 227.

⁷² D30-4864: [CAR-D30-0018-0001](#), para. 4.10.2.

⁷³ D30-4864: T-271, p. 39, line 20 to p. 40, line 3.

⁷⁴ D30-4864: T-272, p. 22, lines 6-9.

obscures the identification of a primary user.⁷⁵ Second, in conflict settings, user profiling introduces additional uncertainties.⁷⁶ Third, where CDRs indicate that two numbers attributed to the same person are in contact, this warrants further investigation.⁷⁷

ii) Cell site

33. The OTP submitted a series of CDRs from Orange and Telecel as evidence. However, this evidence, where used for geolocation analysis, lacks probative value and reliability in urban areas.⁷⁸ Notably, no expert was called to analyse the cell-site data, nor was there any information provided regarding the methodology used by the telecom providers for cell site data collection. Additionally, there was no testimony from representatives of these telecom companies to validate the records. The only data available pertains to the location of the cell towers and without expert analysis, courts should be hesitant to draw conclusions about an individual's location based solely on tower locations.⁷⁹

34. Cell-site analysis relies on historical data,⁸⁰ where accurate cell-site locations, antenna specifications, orientation, and precise timestamps are essential for reliable analysis.⁸¹ Without these details, the geolocation analysis is significantly compromised,⁸² as power level and configuration changes remain undocumented in this case.⁸³ In this case, the lack of azimuth data for cell towers forces experts to assume random antenna orientations, reducing the accuracy of the cell-site analysis.⁸⁴ On-site coverage measurements were also unfeasible due to conditions in CAR.⁸⁵ Without drive surveys, such as in this case by Orange, Telecel or Moov,⁸⁶ discrepancies

⁷⁵ Frequent battery shortages lead individuals to find alternative ways to power their phones, often resulting in frequent SIM card swapping or lending phones with sufficient charge. Thus, it is inaccurate for the OTP to attribute a specific phone number to a single user, as evidence clearly indicates multiple users handling the same device see [CAR-OTP-2065-1913](#): This video shows an individual manipulating phones and SIM cards, swapping a SIM card into a phone with a sufficient battery charge. See [CAR-OTP-2065-2412](#) / [CAR-OTP-00002110](#), p. 000003, line 19: In this instance, Mr. Yekatom lends his phone to another individual and expects it back within minutes: *'J'ai activé pour 15 minutes, appelle un peu, appelle juste un peu et redonne-moi mon truc.'* See [CAR-OTP-2065-2488](#) / [CAR-OTP-00002193](#): This video highlights the frequent battery shortages faced by individuals in areas with limited access to electricity, forcing them to resort to rudimentary charging methods. These examples illustrate that the usage and attribution of phone numbers cannot be linked exclusively to one user, given the practical necessity of sharing devices and swapping SIM cards among individuals in environments with limited charging resources.

⁷⁶ D30-4864: T-272, p. 24, line 16-20.

⁷⁷ D30-4864: T-272, p. 25, line 13 to p. 26, line 4.

⁷⁸ P-2973: T-241, p. 25, lines 6-10, p. 41, lines 1-11; See also [CAR-D29-0003-0189](#), p. 0192 for illustration. Also, in 2013-2014, in urban areas the coverage offered generally by one antenna could be more than 1.5km, see P-2973: T-241, p. 45, line 25 to p. 46, line 2.

⁷⁹ [CAR-D30-0018-0001](#), paras. 4.9.5-4.9.6.

⁸⁰ D30-4864: T-272, p. 43, lines 11-16.

⁸¹ D30-4864: [CAR-D30-0018-0001](#), para. 4.2.8.

⁸² D30-4864: T-271, p. 52, lines 15-25; T-272, p. 2, lines 20-24, p. 37, lines 7-16; P-2973: T-241, p. 32, lines 5-28.

⁸³ D30-4864: T-272, p. 38, line 24 to p. 39, line 9. See also P-2973: T-241, p. 34, lines 14-20, p. 35, lines 1-2.

⁸⁴ D30-4864: T-272, p. 44, lines 3-13.

⁸⁵ P-2973: T-241, p. 31, line 6 to p. 32, line 28.

⁸⁶ P-2973: T-241, p. 30, lines 6-10, p. 31, line 13 to p. 32, line 1, p. 32, lines 15-28; See [CAR-D29-0003-0196](#), p. 0201 for an example of drive test survey.

between database information and actual cell tower locations can impact geolocation assessments.⁸⁷

35. 'Best server coverage' does not guarantee the strongest signal across an area,⁸⁸ and different cell sites may cover specific patches.⁸⁹ Connections to different antennas can change within seconds,⁹⁰ especially at greater distances.⁹¹ Connecting to an antenna does not confirm proximity to it. Thus, the OTP's claim that an individual was at a specific location in Bangui based solely on antenna connection is flawed,⁹² as CDRs only record the utilised cell, not the anticipated strongest cell.⁹³ In congested urban areas like Bangui on 5 December 2013, unexpected surges in call volume complicate accurate conclusions.⁹⁴ Therefore, any cell-site geolocation conclusions drawn by the OTP for 5 December are unreliable. Moreover, it remains technically impossible for a phone in one city to connect to an antenna 100–120 km away in another city.⁹⁵ In 2013-2014, damage, vandalism, and power shortages affected Orange's antennas, reducing signal strength and availability due to limited fuel supplies.⁹⁶

iii) CDR

36. Calls lasting only one or two seconds are generally regarded as failed calls.⁹⁷ Given the unreliable network conditions in the CAR, caution is warranted in drawing conclusions from the frequency of contacts based on these short call durations.

37. Networks aim to record calls with 99.9% accuracy,⁹⁸ and obtaining the CDR of the other party serves as an additional verification,⁹⁹ reducing the risk of unrecorded calls. This challenges the

⁸⁷ D30-4864: T-272, p. 39, line 11 to p. 40, line 3.

⁸⁸ D30-4864: T-272, p. 31, lines 5-17, p. 41, line 17 to p. 42, line 22; P-2973: T-241, p. 25, line 24 to p. 26 line 3, p. 34, line 25 to p. 35, line 12, p. 35, line 24 to p. 36, line 1, p. 40, lines 8-12.

⁸⁹ D30-4864: T-272, p. 35, lines 21-23; P-2973: T-241, p. 25, lines 6-10; See also p. 26, line 4 to p. 8, line 11, p. 29, lines 6-24 where P-2973 is taken to [CAR-OTP-2082-1009](#) which shows calls made or received by a specific user. At p. 1010, it's noted that the distance between the two cell towers, Borosse and Bimbo, is 19km and p. 1011 reveals that the phone user connects to these two sites within very short intervals. Specifically, at 19:12, the phone connects to Bimbo, then switches to Borosse four minutes later, reconnects to Bimbo two minutes later at 19:18, and returns to Borosse within less than a minute. Given the short time between connections and the 19km distance it seems to indicate the phone connected on two different cells, rather than actual movement.

⁹⁰ D30-4864: T-272, p. 43, lines 6-7.

⁹¹ D30-4864: T-272, p. 36, line 18 to p. 37, line 3; P-2973: T-241, p. 40, lines 14-19, p. 46, line 13 to p. 47, line 20-28 using [CAR-D29-0003-0189](#), p. 0195 to illustrate patches.

⁹² D30-4864: T-272, p. 44, lines 3-13.

⁹³ P-2973: T-241, p. 62, line 13 to p. 63, line 27.

⁹⁴ D30-4864: T-272, p. 44, line 21 to p. 45, line 1; P-2973: T-241, p. 57, line 18 to p. 58, line 18.

⁹⁵ D30-4864: T-272, p. 46, lines 15-19; See also P-2973: T-241, p. 41, line 23 to p. 42, line 8.

⁹⁶ P-2973: T-241, p. 52, lines 10-27.

⁹⁷ D30-4864: T-271, p. 63, lines 15-18.

⁹⁸ D30-4864: T-272, p. 14, line 18 to p. 15, line 3.

⁹⁹ D30-4864: T-272, p. 14, lines 8-11, p. 15, lines 18-21.

credibility of witnesses P-0954, P-0446, and P-0487,¹⁰⁰ particularly when they provided their own numbers and the numbers called, and CDRs exist for these numbers.¹⁰¹

38.D30-4864 raised concerns about potential misunderstandings when reviewing hundreds of raw data files,¹⁰² risking misinterpretation of call counts.¹⁰³ Some CDRs submitted by the OTP may contain redundant data,¹⁰⁴ and require manipulation for accurate analysis,¹⁰⁵ especially given varied file formats, increasing the risk of errors.¹⁰⁶

iv) CST

39.D30-4864 emphasised that any analytical products produced for a party must be repeatable to allow for verification,¹⁰⁷ especially given the various differences in the CDRs from the same company.¹⁰⁸ The OTP's data explanation process raised concerns for the expert,¹⁰⁹ including its final product.¹¹⁰ The Defence submitted multiple guides for each CDR type outlining the transformation process into CST.¹¹¹ These guides, endorsed by the expert, enable both the OTP and the Chamber to replicate and verify the process.¹¹² In comparison, the OTP has submitted CSTs without transparently and fully explaining its process,¹¹³ and as such hampers the Chamber's ability to recreate the process. Whilst the Chamber has the underlying CDRs available to it, this is a technical process which requires repeated verification at each step.

b) Satellite imagery

40. The satellite images of the Boeing Mosque were carefully analysed by an expert witness, P-2193,¹¹⁴ who has extensive experience with UNOSAT. This expert followed a rigorous process to select the highest-quality images available,¹¹⁵ consulting an online catalogue to identify and

¹⁰⁰ See Defence's submission in ICC-01/14-01/18-2562-Conf-AnxA, Section I item #1 as regard to P-0446; Section II items #1-6 and 12 as regard to P-0487; Section II items #2 and 12-13 as regard to P-0954.

¹⁰¹ D30-4864: T-273, p. 7, line 24 to p. 8, line 2, p. 10, lines 19-21.

¹⁰² D30-4864: T-272, p. 11, lines 6-11.

¹⁰³ D30-4864: T-272, p. 16, lines 12-23; T-273, p. 16, lines 6-10; see also D30-4864: T-273, p. 16, line 24 to p. 17, line 3.

¹⁰⁴ D30-4864: T-272, p. 17, lines 8-20.

¹⁰⁵ D30-4864: T-272, p. 59, line 20 to p. 60, line 18.

¹⁰⁶ D30-4864: T-273, p. 47, line 23 to p. 48, line 5.

¹⁰⁷ D30-4864: T-270, p. 24, lines 1-2.

¹⁰⁸ D30-4864: T-272, p. 59, lines 7-19.

¹⁰⁹ D30-4864: T-272, p. 60, line 19 to p. 62, line 4.

¹¹⁰ D30-4864: T-272, p. 62, line 5 to p. 64, lines 13, 15-23.

¹¹¹ See [CAR-D29-0004-3912](#) for single-target Telecel CDRs to single number CSTs; [CAR-D29-0004-3913](#) for multi-target Orange CDRs to single number CSTs; [CAR-D29-0004-3918](#) for multi-target Telecel CDRs divided by months to single number CSTs; [CAR-D29-0004-3920](#) for multi-target Orange CDRs with a specific format to single number CSTs; [CAR-D29-0004-3922](#) for multi-target Telecel CDRs divided by numbers for single number CSTs.

¹¹² D30-4864: T-272, p. 48, line 23 to p. 59, line 2.

¹¹³ D30-4864: T-272, p. 59, line 20 to p. 62, line 4, p. 63, line 23 to p. 64, line 13.

¹¹⁴ [CAR-OTP-2127-6617](#), p. 6618.

¹¹⁵ P-2193: T-019, p. 15, line 7.

purchase satellite images¹¹⁶ with resolutions of average 50 centimeters¹¹⁷, ensuring optimal clarity for assessing structural damage. These images were specifically chosen to meet the requirements set out in the OTP's letter of instruction¹¹⁸, which sought to determine whether the mosque had been destroyed and, if so, to identify the means of destruction.¹¹⁹

41.P-2193 obtained pairs of 'before' and 'after' satellite images to accurately compare structural changes over time.¹²⁰ Images from 27 November, 8 December, 28 December, and 30 December 2013 were reviewed for the Boeing Mosque.¹²¹ Analysis of his evidence is further set out in Section IV.B.1.f.i).

c) Audio/video

i) General assessment

42. Whilst audio/video material may appear to be reliable as contemporaneous recordings of events, caution must be exercised in relation to the context in which the material is presented, in particular as regard to comments or information provided by a journalist or other third party in a video when such persons were not a witness of the case.¹²² Even if the video is authentic and originates from a reputable source, its content might nevertheless still be unreliable.¹²³

43. First, numerous rumours and fake news were widely spread during the CAR crisis, and have evidently infiltrated audio/video material submitted in these proceedings.¹²⁴ For example, an individual was presented at Yamwara as having been executed.¹²⁵ It was only upon Defence investigations, that this serious allegation was proven to be false.¹²⁶ On the contrary, occasionally, audio/video can sometimes help correct errors in written records. This was the case with P-0808, who was shown by the OTP a press article suggesting that he had justified 'anti-balaka' attacks

¹¹⁶ [CAR-OTP-2127-6617](#), p. 6618.

¹¹⁷ P-2193: T-019, p. 15, lines 7-12.

¹¹⁸ [CAR-OTP-2127-3932](#); [CAR-OTP-2122-8986](#), p. 8987.

¹¹⁹ [CAR-OTP-2122-8986](#), p. 8987 whereas the investigators of the OTP provide the GPS location of the Boeing Mosque area they want the expert to analyse through satellite images. The letter of instruction specifically requires the expert to analyse if available satellite imagery can be used to verify the existence of damaged or destroyed building with a particular attention to the Boeing Mosque for which GPS coordinates are provided. The initial letter of instruction [CAR-OTP-2127-3932](#) requested the expert to analyse satellite imagery to determine the means by which buildings were destroyed.

¹²⁰ [CAR-OTP-2127-6617](#), p. 6619; P-2193: T-019, p. 15, lines 15-16. See also p. 16, lines 11-13 where P-2193 confirms never having had any problems in the past with the accuracy or reliability from the images he obtained from the providers.

¹²¹ [CAR-OTP-2127-6617](#), p. 6621.

¹²² ICTR-98-44 (R89(c) Decision), para. 35.

¹²³ ICC-01/05-01/13-1989-Red, para. 208.

¹²⁴ See above, Section II, B.c).iii).

¹²⁵ [CAR-OTP-2012-0523](#), [51:00] to [51:30] / [CAR-OTP-2118-5547](#), p. 5587, lines 1305-1316.

¹²⁶ D29-3015: [CAR-D29-0009-0437-R01](#), paras. 16-19. See also P-1839: T-174, p. 7 line 4 to p. 11 line 6. The Defence argues that media misinformation has impacted witness testimonies. Witnesses repeated this false information in their testimony, asserting that the killing took place, but later admitted they had no direct knowledge and were only repeating what was said in the documentary (P-1858: T-186, p. 61, lines 12-20, p. 63, line 20 to p. 64, line 6). This demonstrates how media narratives can influence witnesses who rely on external sources rather than personal knowledge.

on Muslims. However, the audio recording of the interview revealed that he had, in fact, stated the opposite.¹²⁷

44. Second, the influence of foreign journalists is a material factor to consider when assessing the conduct of individuals depicted in the recording, particularly during conflict.¹²⁸ Sensationalist images are more likely to be filmed by the journalist in question, to promote the recording in question and/or encourage individuals – either by virtue of the recording itself or by others present in the background - to behave in an excessive manner.¹²⁹ This issue is heightened where only an extract of the recording is submitted,¹³⁰ or where the subject(s) appear for a brief period.¹³¹ A telling example is the influence of interviewees to provide specific answers while a translation in Sango was taking place such as an interviewee that was directed to *‘tell her that Seleka are not Central Africans, they are Muslims, if not Sudanese then Chadians’* or *‘say to her that tomorrow you are going to attack, if not today then tomorrow’*,¹³² those instructions being given by the assistant of [REDACTED]¹³³ in an apparent attempt to have more sensationalistic content.
45. Third, the identification of individuals by either third parties to the proceeding and/or the OTP bear no probative value where the identification is not elicited either in the recording or by a witness in these proceedings and will otherwise lead to misidentification.¹³⁴ In particular, individuals depicted in the recordings and which the OTP alleges are RFACPP members,¹³⁵ by virtue of extraneous factors should be disregarded unless otherwise corroborated by tested and reliable

¹²⁷ See P-0808: T-069 (ENG), p. 59, line 4 to p. 60, line 15, or incomplete French version T-069 (FRA), p. 65, line 20 to p. 67, line 5, in this instance P-0808 is presented by the OTP with a press article ([CAR-OTP-2072-1204](#)) claiming he had justified attacks on Muslim civilians, allegedly due to their support for the Seleka. P-0808 protested, questioning the credibility of the press agency (T-069, p. 67, lines 6-7). When the OTP was reluctant to play the audio, the Presiding Judge ordered it to be broadcast immediately (T-069, p. 68, lines 20-27; p. 89, line 2 to p. 90, line 10). The audio ([CAR-OTP-2118-4151](#) / [CAR-OTP-2135-0915](#), p. 0916, lines 24-34) revealed that P-0808 had actually stated that the ‘anti-balaka’ targeted the Seleka, as the Seleka were mainly Muslims a confusion was made regarding their objective, but that the ‘anti-balaka’ do not attack Muslims and that Muslims are not their objective. The Presiding Judge noted the significant difference between the original statement and the journalist’s interpretation (T-069, p. 94, lines 3-5).

¹²⁸ ICC-01/05-01/08-424, para. 104.

¹²⁹ Such changes in behaviour could result in people taking poses and shouting: see [CAR-OTP-2065-4320](#) / [CAR-OTP-2130-1377](#); see also the Defence’s submissions on this video ICC-01/14-01/18-2233-Conf-AnxA, pages 372-373, item #414.

¹³⁰ ICC-01/04-02/06-2240, para. 10.

¹³¹ ICC-01/04-01/06-2842, fn. 2342.

¹³² [CAR-OTP-2065-5584](#) / [CAR-D29-0006-1327](#), p. 1328, lines 12-25.

¹³³ Assistant appearing in [CAR-OTP-2065-5584](#) [03:00] to [03:09]. Individual appearing also in [CAR-OTP-2065-0726](#), [00:48] to [00:55], see submission on this video [CAR-OTP-2065-0726](#) in ICC-01/14-01/18-2515-Conf-AnxB, p. 5, item #16, column ‘Related Submitted Items’.

¹³⁴ It is recalled that in its submissions on videos the OTP mistook Ouandjio for Mr. Yekatom (see ICC-01/14-01/18-2233-Conf-AnxA, p. 345; video [CAR-OTP-2065-3384](#)); or identified the same individual as both a female named Cynthia and a ‘boy [who] looks younger than 15 years old’ (see ICC-01/14-01/18-2233-Conf-AnxA, p. 281; video [CAR-OTP-2065-3480](#) and p. 372; video [CAR-OTP-2065-4320](#)).

¹³⁵ See also ICC-01/14-01/18-2233-Conf, paras. 53-60; ICC-01/14-01/18-2515-Conf, paras. 29-30; ICC-01/14-01/18-2515-Conf-AnxB, pp. 27-32.

evidence.¹³⁶

ii) Facebook audio files

46. The Defence disclosed and obtained the formal submission in evidence of 66 audio files obtained from the Facebook/Meta company. Those audio files correspond to voice messages sent within a written conversation, and must be analysed in the context of those conversations in order to understand their content and identify the senders and receiver. The Defence respectfully refers the Chamber to its previous submissions providing the methodology to locate the relevant voice message within a specific conversation.¹³⁷

iii) Metadata of P-1819's videos

47. The Defence refers to its previous submissions regarding the metadata of the videos including the reliability of the metadata on the 5th December 2013 videos filmed by P-1819.¹³⁸ The Defence also recalls that it does not rely on dates provided by the metadata for the remaining videos filmed by P-1819 as it erroneously mentions 2010. However, its analysis can be useful to determine the sequence and chronology of the material.¹³⁹

d) Open-source documents and NGO/UN reports

48. The reliability of open-source documents and NGO/UN reports presents significant concerns, impacting both the quality of evidence they offer and the testimonies of individuals who have relied on them. Reliance on open-source reports alone is of limited relevance to support a conclusive finding especially when uncorroborated,¹⁴⁰ and should thus be accorded limited probative value, especially on contested issues.¹⁴¹ These reports frequently depend on hearsay, rumours, or information from anonymous sources,¹⁴² with insufficient verification at the original source or a lack of reliable methodology.¹⁴³

49. The reliance on anonymous sources within these reports also introduces significant risks, as the Chamber cannot verify the credibility of the individuals providing information or assess potential

¹³⁶ ICC-01/05-01/08-3636-Anx2, para. 10.

¹³⁷ ICC-01/14-01/18-2611-Conf, paras. 24-27.

¹³⁸ ICC-01/14-01/18-2515-Conf, para. 23, citing the OTP's position as regard to the dates appearing in the Metadata; ICC-01/14-01/18-2515-Conf, pp. 1-2, submissions for video [CAR-OTP-2065-1200](#) and its metadata [CAR-OTP-2065-6154](#).

¹³⁹ ICC-01/14-01/18-2515-Conf, paras. 27-29.

¹⁴⁰ ICC-01/04-02/06-2359, fns. 132, 1282, 1312.

¹⁴¹ ICC-01/14-01/18-403-Conf-Corr, para. 224; ICC-01/04-01/07-2635, para. 31. See also submissions made on items from international organisation and NGO documents ICC-01/14-01/18-1978-Conf-AnxA, ICC-01/14-01/18-1279-Conf-AnxA, pp. 13-23, 30-33. See also submissions made on items from open-source ICC-01/14-01/18-2037-Conf-AnxA.

¹⁴² ICC-01/04-02/06-2359, fn. 1751; ICC-02/11-01/15-1263-AnxB-Red, paras. 202, 285, 1321, 1743, 1801, 3909.

¹⁴³ P-0287: T-021, p. 21, lines 5-24, p. 22, lines 6-16, p. 41, lines 9-14; P-2012: T-025, p. 10, line 12 to p. 11, line 13; P-2926: T-031, p. 82, line 24 to p. 84, line 23; P-2927: T-221, p. 42, lines 4-18. See also ICC-01/05-01/08-3343, para. 237. See also P-2467: [CAR-OTP-2109-0520-R01](#), paras. 23-25, 28.

biases. The lack of transparency about the sources also raises the possibility that some of these individuals who may be directly involved in the case, either as witnesses or interested parties, without the Chamber's knowledge.¹⁴⁴

50. The production of these documents is also influenced by the inherent biases of their authors, which affects the objectivity and reliability of the information presented.¹⁴⁵ It is even more concerning to solely rely on information from reports when their authors have not been questioned by the Defence about these biases, the methodology used to collect the information and the potential shortcomings it may entail,¹⁴⁶ especially as testimony from researchers and authors has revealed additional methodological flaws that go beyond the limitations acknowledged in the reports themselves.¹⁴⁷

51. The provenance of UN and NGO reports must be carefully scrutinised to ensure genuine corroboration. If it is unclear whether multiple reports draw from the same source, the Chamber should avoid treating them as mutually corroborative.¹⁴⁸ Without independent corroboration, such reports should not be deemed sufficient to substantiate findings against the Accused.¹⁴⁹

52. The Chamber should critically assess the use of these reports and related testimonies, given their significant reliability limitations. Accordingly, the Defence has consistently corroborated its open-source evidence with verified documentary or testimonial evidence when referenced.

e) Expert reports

53. Both P-2927 and P-0925's reports extend beyond the scope of any Article 74 judgment and as such, the Defence reserves its position to address the contents therein at the appropriate stage as necessary.¹⁵⁰

f) Facebook

54. Content from Facebook and social media should carry low probative value due to concerns about reliability and user identification.¹⁵¹ Many posts lack essential details such as author identity, context, event specifics, or source information. This issue is compounded when neither the sender,

¹⁴⁴ [CAR-OTP-2088-1198](#); [CAR-OTP-2088-1230-R01](#).

¹⁴⁵ P-2926: T-032, p. 21, line 28 to p. 22, line 8; [CAR-D29-0005-0168](#). See also P-0808: T-069, p. 84, lines 10-16.

¹⁴⁶ ICC-01/14-01/18-2016-Conf for introduction into evidence of the report of P-0925 under the Rule 68(2)b); [CAR-OTP-2109-0520-R01](#).

¹⁴⁷ P-0287: T-021, p. 21, lines 5-24, p. 22, lines 6-16, p. 41, lines 9-14; P-2012: T-025, p. 10, line 12 to p. 11, line 13; P-2926: T-031, p. 82, line 24 to p. 84, line 23; P-2927: T-221, p. 42, lines 4-18.

¹⁴⁸ P-2012: T-025, p. 7, lines 1-10; P-2467: [CAR-OTP-2109-0520-R01](#), paras. 15, 17, 21, 23, 27, 36.

¹⁴⁹ ICC-02/11-01/15-1263-AnxB-Red, paras. 1607, 1615.

¹⁵⁰ See also ICC-01/14-01/18-864-Conf, paras. 7-14, 19-23.

¹⁵¹ The Defence refers the Chamber to its extensive submissions on Facebook evidence submitted to the OTP bar table motions for Facebook evidence, see ICC-01/14-01/18-1996-Conf and its Annex A.

recipient, nor mentioned individuals have confirmed the posts' authenticity or context. Furthermore, social media platforms are often used to rapidly disseminate unverified information, *fake news*, or rumours without restrictions on what can be posted.¹⁵² Some witnesses have even acknowledged the widespread presence of fake news on Facebook,¹⁵³ or having shared themselves certain false information.¹⁵⁴ The lack of fact-checking and verification before sharing content means that false or exaggerated accounts can spread unchecked and where relied on, risks the introduction of misleading or false information into the proceedings. This risk is further amplified when these social media posts pertain to central aspects of the charges or highly disputed matters, where accuracy and reliability are crucial for a fair evaluation of the evidence.

3. Fabrication of evidence

55. The Chamber has before it numerous submissions in relation to the fabrication of substantive evidence concerning Count 29.¹⁵⁵ Noting that these submissions are on the record and will be part of the Chamber's holistic assessment as to the lack of weight to be given to such evidence, the Defence sets out the salient points to demonstrate: (i) the scope of the scheme to fabricate evidence for the purposes of these proceedings which involved numerous OTP witnesses, participating victims and intermediaries employed by the OTP and Registry; and (ii) the inherent unreliability of the fabricated evidence of P-2475, P-2018, P-1974, V45-0001 and V45-0002. It is these core aspects which nullify the accounts of the false child soldiers both in relation to Count 29 and fake claims with regard to the acts and conduct of Mr. Yekatom as well as the alleged operations and movements of the RFACPP.

a) Collusion

56. The ESF is the source of the corruption that has seriously compromised the evidence related to Count 29. Individuals involved in the conspiracy scheme to manufacture evidence are all – without exception – directly or indirectly linked to ESF:¹⁵⁶ [REDACTED] (P-1974), [REDACTED] (P-2018), [REDACTED] (P-2580), [REDACTED] (P-2638), [REDACTED] (P-

¹⁵² See for examples [CAR-OTP-2102-8432](#), pp. 8433-8434 and [CAR-OTP-2099-7606](#), pp. 7633-7634 in which interlocutors report [REDACTED]. See also [CAR-OTP-2099-9903](#), p. 9907 where one individual reports that [REDACTED]. See also [CAR-OTP-2133-4968](#), p. 4998.

¹⁵³ P-1521: T-082, p. 62, line 3 to p. 63, line 13; P-0808: T-070, p. 28, line 23 to p. 29, line 15.

¹⁵⁴ P-0889: T-108, p. 48, lines 11-28, p. 88, lines 1-5. See also [CAR-OTP-2133-4968](#), p. 4994 where [REDACTED].

¹⁵⁵ ICC-01/14-01/18-1478-Conf-Exp; ICC-01/14-01/18-1500-Conf-Exp; ICC-01/14-01/18-1728-Conf-Exp; ICC-01/14-01/18-1790-Conf-Exp; ICC-01/14-01/18-1864-Conf; ICC-01/14-01/18-1959-Conf; ICC-01/14-01/18-2111-Conf; ICC-01/14-01/18-2161-Conf-Exp; ICC-01/14-01/18-2213-Conf; ICC-01/14-01/18-2240-Conf; ICC-01/14-01/18-2257-Conf; ICC-01/14-01/18-2294-Conf; ICC-01/14-01/18-2321-Conf; ICC-01/14-01/18-2406-Conf; ICC-01/14-01/18-2468-Conf; ICC-01/14-01/18-2500-Conf; ICC-01/14-01/18-2669-Conf.

¹⁵⁶ ICC-01/14-01/18-2240-Conf, para. 3.

2475), [REDACTED] (P-2511), [REDACTED] (P-2582), [REDACTED], [REDACTED] (P-2583), [REDACTED] (P-2620), [REDACTED] (P-2671), [REDACTED] (V45-0001) and [REDACTED] (V45-0002).

57. The two instigators are [REDACTED] P-1974 and [REDACTED] P-2018.¹⁵⁷ In 2014, they concocted a [REDACTED] involving false child soldiers: [REDACTED] individuals who were not former child soldiers, were not part of RFACPP and/or were not under the age of fifteen in the charged period. The goal of ESF at the time was to benefit from international aid funds for personal and professional purposes.
58. The scope of their scheme, along with the associated benefits, expanded following the OTP's and – albeit for differing purposes – the Registry's reliance on the false ESF list of demobilised 'child soldiers'.¹⁵⁸ When tasked by the Registry to collect and identify 'former child soldiers', P-2018 was assisted by [REDACTED], P-2580 [REDACTED] ([REDACTED]) and his counterpart [REDACTED] P-2638, both involved in the fraudulent scheme.¹⁵⁹ Besides securing jobs for themselves,¹⁶⁰ they introduced into the proceedings, at different stages and through different channels, the 'former child soldiers' conspirators: P-2582, P-2583, P-2475, P-2511, P-2620, P-2580's son ([REDACTED]), V45-0001 and V45-0002, who individually share the same motivation: relocation and its concomitant benefits¹⁶¹ as well as the prospect of receiving reparations, for the ones recognized as participating victims.
59. Their introduction in these proceedings demonstrates a fraudulent *modus operandi* (use of false identity, including false date of birth, submission of false documents in support and fabrication of a false narrative)¹⁶² and obvious collusion which transpires *inter alia* by ESF's continued

¹⁵⁷ [REDACTED] public reputation concerning his involvement in corruption: [REDACTED] ([CAR-D29-0019-0048](#), p. 0049; [CAR-D29-0019-0126](#), p. 0127).

¹⁵⁸ [CAR-OTP-2072-0457-R02](#); [CAR-OTP-2135-1589-R01](#); [CAR-D29-0019-0296](#), p. 0298; [CAR-OTP-2135-4474-R01](#); [CAR-OTP-2135-4181-R01](#); [CAR-OTP-2135-4183-R01](#).

¹⁵⁹ [CAR-OTP-00002013](#); [CAR-OTP-00001302-R01](#); see also [CAR-D29-0016-0171](#): P-2580's membership in [REDACTED] indicating his position of influence and his ability to produce/create false document; [CAR-OTP-2135-4183-R01](#); P-2018: T-226, p. 37, line 6 to p. 38, line 15.

¹⁶⁰ [CAR-OTP-00001302-R01](#); [CAR-OTP-2135-4474-R01](#); [CAR-OTP-2135-4181-R01](#).

¹⁶¹ P-2475 expressed his dream to leave the country in a message sent on Facebook ([CAR-D29-0019-8603](#)) in [REDACTED] before being relocated [REDACTED] by the VWU (ICC-01/14-01/18-2135-Conf, para. 20); [CAR-D29-0020-2006](#); [CAR-D29-0020-0367](#), p. 0405; [CAR-D29-0020-4556](#); [CAR-D29-0020-4556](#), pp. 4566-4567; [CAR-D29-0019-5123](#), pp. 5125-5156; [CAR-D29-0008-0050](#) / [CAR-D29-0006-1372](#); [CAR-D29-0008-0072](#); [CAR-D29-0008-0104](#) / [CAR-D29-0006-1395](#); [CAR-D29-0021-2036](#); [CAR-D29-0021-2809](#); [CAR-D29-0021-2829](#); [CAR-D29-0021-2883](#); [CAR-D29-0021-3091](#); [CAR-D29-0020-1795](#); [CAR-D29-0020-1347](#), pp. 1407-1411; [CAR-D29-0020-0611](#); [CAR-D29-0020-1347](#), p. 1417; [CAR-D29-0020-0367](#), pp. 0370-0372.

¹⁶² In [REDACTED] 2019, P-2018, together with other Registry staff, held group meetings for 'former child soldiers' to complete fraudulent victim application form in which P-2582, P-2583, P-2580's son, P-2620, assisted by P-1974, and V45-0001 (see ICC-01/14-01/18-2240-Conf, paras. 10-11, 25. The fraudulent character of the applications and the irregularity of the process followed during the meetings appear from the use of false identities (P-2620's real name is [REDACTED]; V45-0001's real name is '[REDACTED]'; V45-0002's real name is [REDACTED])), presence of false 'proof of identity' signed

facilitation.¹⁶³

60. The collusion amongst the false child soldiers further materialised following extensive contacts between P-2475, P-2620 and P-2582 following their relocation.¹⁶⁴ Such contact was not merely social, but rather reflected their knowledge of the fact that each of them was: (i) aware of their false child soldier status by virtue of their participation in the trainings;¹⁶⁵ (ii) aware of their involvement and protected status before the Court,¹⁶⁶ and (iii) aware of the benefits that each received on the basis of the fake status.¹⁶⁷

61. Tellingly, the collusion between the conspirators intensified as their testimony approached. In [REDACTED] 2022, once the OTP scheduled to call [REDACTED] to the stand, she contacted [REDACTED] P-1974 and P-2018, desperately searching for information on the fake versions they fabricated for her.¹⁶⁸ Their assistance is not selfless: while P-2018 and P-2580 repeatedly requested money from [REDACTED],¹⁶⁹ [REDACTED], P-1974, appears to be particularly close to [REDACTED].¹⁷⁰ In [REDACTED] 2022, [REDACTED] having already informed [REDACTED] of his arrival in The Hague,¹⁷¹ and whilst left unattended – with two mobile

by [REDACTED] (see D29-6024: [CAR-D29-0009-0209](#); V45-0002: T-247, p. 60, lines 19-23: V45-0002 did not recognise D29-6024 on [CAR-D29-0010-0162](#) while D29-6024 signed his ‘attestation d’identité’), the fact that certain applicant have family linked with ESF staff members (application completed by P-2580’s [REDACTED] and P-2638’s [REDACTED], P-2620) and the disavowals of their claims in their forms (ICC-01/14-01/18-2240-Conf, paras. 11, 25; ICC-01/14-01/18-1306-Conf-Exp, paras. 41-43). See also D29-6024: [CAR-D29-0009-0209](#), paras. 24-27. The irregularity of the meetings is also described by D29-6033: [CAR-D29-0009-0315-R01](#), paras. 17, 20-28 (‘[REDACTED] nous a expliqué ce que l’on devait dire’) and D29-6025: [CAR-D29-0009-0280-R01](#), paras. 42-50 (‘c’est [REDACTED] qui les a entraînés pour inventer un faux récit’).

¹⁶³ Except for P-2620, all of them appear on the [REDACTED] list provided by P-2018 to the OTP ([CAR-OTP-2071-0279-R03](#) and [CAR-OTP-2115-0369-R05](#)) or have been involved with [REDACTED] (ICC-01/14-01/18-1969-Conf-AnxA-Red-Corr-Red, pp. 2, 5). P-2580 escorted to their interview with the OTP P-2582, P-2583 and P-2620, see [CAR-OTP-2135-4188-R02](#). P-2620 was also accompanied by P-2638 as [REDACTED]; the latter was consciously part of the false narrative and directly provided the OTP with fabricated documents (see [CAR-OTP-2123-0077-R02](#); [CAR-OTP-00000737-R01](#); [CAR-OTP-0000069-R01](#); [CAR-OTP-2119-0905](#); [CAR-OTP-2119-0909](#); [CAR-OTP-2119-0906](#); see below; P-2580 was involved in providing [REDACTED] records for P-2475 to the OTP (see below).

¹⁶⁴ ICC-01/14-01/18-1790-Conf-Exp (with Annexes A to N); ICC-01/14-01/18-2111-Conf (with confidential Annexes A and B); ICC-01/14-01/18-2240-Conf, paras. 19-21; see also ICC-01/14-01/18-2240-Conf-AnxA.

¹⁶⁵ [CAR-OTP-2071-0279-R03](#) (#19 and #26); P-2582 refers to P-2475 as ‘[REDACTED]’ which is the nickname people know him by in [REDACTED]; see also [REDACTED].

¹⁶⁶ [CAR-D29-0008-0043](#) / [CAR-D29-0006-1361](#); [CAR-D29-0008-0044](#) / [CAR-D29-0006-1357](#); [CAR-D29-0008-0045](#) / [CAR-D29-0006-1359](#); [CAR-D29-0008-0046](#) / [CAR-D29-0006-1402](#); [CAR-D29-0008-0047](#) / [CAR-D29-0006-1356](#); ICC-01/14-01/18-2111-Conf-AnxB; ICC-01/14-01/18-2111-Conf, paras. 7-20.

¹⁶⁷ [CAR-D29-0020-3980](#).

¹⁶⁸ [CAR-D29-0019-0075](#), pp. 0090-0092; [CAR-D29-0008-0021](#) / [CAR-D29-0006-1339](#); [CAR-D29-0019-4998](#), pp. 5002-5003; [CAR-D29-0008-0022](#) / [CAR-D29-0006-1340](#); P-1974 and P-2018’s denial of their contact with [REDACTED] under oath further evidence the collusive nature of their contacts.

¹⁶⁹ [CAR-D29-0019-0477](#); [CAR-D29-0019-4679](#), p. 4689; [CAR-OTP-00000144](#); [CAR-OTP-00000145](#); [CAR-D29-0019-0075](#); [CAR-D29-0019-0068](#), p. 0070; [CAR-D29-0019-0493](#), p. 0494; [CAR-D29-0016-0078](#); P-2018 and P-2582 seem also to have a close relationship ([CAR-D29-0019-0075](#), pp. 0083-0087; ICC-01/14-01/18-2240-Conf-AnxA, p. 10 ‘10 March 2020’ and p. 15 ‘10-13 July 2021’).

¹⁷⁰ Communication between P-1974 and P-2582: [CAR-D29-0008-0036](#); [CAR-D29-0019-6277](#), pp. 6278-6280 in which he repeatedly calls her [REDACTED]; [CAR-D29-0019-4998](#), pp. 4998-4999; [CAR-OTP-0019-4678](#). See also ICC-01/14-01/18-2240-Conf-AnxA, p. 18.

¹⁷¹ [CAR-D29-0019-8095](#), p. 8095.

phones – in his hotel room to read his statement, subsequently alerted [REDACTED] that [REDACTED].¹⁷² In the corrections made by [REDACTED] to his statement, he alleged having participated [REDACTED].¹⁷³ Unsurprisingly, [REDACTED] and [REDACTED] are the only two witnesses who allege that [REDACTED].¹⁷⁴ This corroboration is another example of their coordination to give each other credibility.

62. [REDACTED] and [REDACTED] communicate again after his first day of testimony through a mutual friend.¹⁷⁵ Similarly, a few hours after the conclusion of the examination by the Defence - during which the witness is confronted with [REDACTED] material from P-2620 and P-2582's [REDACTED]-[REDACTED] calls [REDACTED] on multiple occasions and their conversation continues the next day.¹⁷⁶ Meanwhile P-2580 contacts P-2620 [REDACTED].¹⁷⁷ Both [REDACTED] and [REDACTED] remove public content previously available from her Facebook page.¹⁷⁸

b) Scope of fabricated evidence

63. Whilst the fabricated accounts of P-2475, P-2018, P-1974, V45-0001 and V45-0002 are subsequently addressed in this brief, the falsified documents provided to this Court illustrate the intention of these witnesses to mislead the Court as well as the *modus operandi* of the conspirators.

i) OTP case

64. At the core of P-2475's false account is his submission of a falsified [REDACTED] and [REDACTED] records to falsely allege that he was under 15 years at the relevant time.¹⁷⁹ He is

¹⁷² [CAR-D29-0019-8095](#), p. 8096. See also P-2475: T-131, p. 36, lines 12-23; and Email from VWU to TCv, OTP and Defence, 3 June 2022, 11:22.

¹⁷³ ICC-01/14-01/18-2240-Conf-AnxA, p. 25, '23 May 2022'.

¹⁷⁴ ICC-01/14-01/18-1306-Conf-Exp, para. 28.

¹⁷⁵ [CAR-D29-0019-8020-R01](#), p. 8071; [CAR-D29-0008-0030](#) / [CAR-D29-0006-1389](#); P-2475 is also in contact with [REDACTED] ([CAR-D29-0019-7447](#), p. 7453; [CAR-D29-0008-0065](#) / [CAR-D29-0006-1392](#); see also, [CAR-D29-0019-7447](#), p. 7458, voice message sent on 28 May 2022, [CAR-D29-0008-0066](#) / [CAR-D29-0006-1385](#): [REDACTED]. [CAR-D29-0015-0048-R01](#), p. 0050: passport's page showing date of arrival in CAR [REDACTED]).

¹⁷⁶ Conversation [REDACTED] between P-2620 and P-2475: [CAR-D29-0008-0026](#) / [CAR-D29-0006-1383](#); [CAR-D29-0008-0027](#) / [CAR-D29-0006-1380](#). See also Section II.C.2.a.v). In parallel, of P-2475's examination, P-2638 asks P-2620 to call him urgently ([CAR-D29-0021-3097](#)). Previously, P-2620 is also contacted by her family referencing a commission from [REDACTED] (P-2580) and informing her of his scheduled visit ([CAR-D29-0021-3103](#) ([REDACTED] 2022); [CAR-D29-0021-3109](#) ([REDACTED] 2022); See also phone number attributed to P-2580 ([REDACTED], see [CAR-OTP-2135-4188-R02](#), para. 2 for the attribution) was in contact to P-2671 ([REDACTED], see [CAR-OTP-00000012-R01](#)) on [REDACTED] 2022 (see CDR [CAR-OTP-2135-4034](#), row 9409).

¹⁷⁷ The Defence notes that the phone number attributed to P-2580 ([REDACTED], see [CAR-OTP-2135-4188-R02](#), para. 2) was in contact with the [REDACTED] number attributed to P-2620 ([REDACTED], see [CAR-D29-0018-0024](#), p. 0025) in May and June 2022. See CDR [CAR-OTP-2135-4034](#), row 6215 for a contact [REDACTED] 2022, row 9474 for a contact on [REDACTED] 2022. While no CST on the record exists for those calls, the Defence respectfully refers the Chamber to Guide [CAR-D29-0004-3920](#) which details the process to create one from CDR [CAR-OTP-2135-4034](#).

¹⁷⁸ [CAR-D29-0016-0084-R01](#); [CAR-D29-0016-0087-R01](#); see also [CAR-D29-0016-0086-R01](#) for P-2620.

¹⁷⁹ [CAR-OTP-2128-1197-R02](#); [CAR-OTP-2128-1201](#); [CAR-OTP-2128-1202](#); [CAR-OTP-00000006-R01](#).

directly implicated in the falsification of his [REDACTED] with the complicity of [REDACTED] and P-2580.¹⁸⁰ While P-2475 contested the content of [REDACTED] in Court,¹⁸¹ the [REDACTED] and [REDACTED] were collected by P-2580 during the same mission in [REDACTED] 2020.¹⁸² Evidence submitted by the Defence demonstrates the fraudulent nature of the [REDACTED] records which was subsequently confirmed by the OTP.¹⁸³ The similar fabrication of birth certificates is also depicted in relation to P-2511, 2582 and P-2620. Whilst P-2582 and P-2620 were not called, the OTP maintains reliance on their associated documents.

65. Similarly, P-2511 provided a false birth certificate to the OTP investigators.¹⁸⁴ Evidence shows that the civil servant whose name appears on the certificate passed away five years before the issuance of the document.¹⁸⁵ D29-6013, [REDACTED], also confirmed that P-2511 was never part of an ‘anti balaka’ group in [REDACTED] and that she herself went to register P-2511 to the ESF training [REDACTED].¹⁸⁶

66. P-2582 lied about her age and [REDACTED] presented the OTP with birth certificates for P-2582 and [REDACTED], issued by P-2084.¹⁸⁷ The latter admitted that they were fabricated for the purpose of obtaining relocation.¹⁸⁸ Evidence demonstrates that P-2582 was born in 1992 and not 2001 as alleged.¹⁸⁹ Moreover, there is evidence which demonstrates that P-2582’s allegation that [REDACTED] would have been killed by the Seleka after being captured by the ‘anti balaka’ is totally false.¹⁹⁰

67. P-2620 changed her surname from ‘[REDACTED]’ to ‘[REDACTED]’ and her date of birth for the purpose of participating in the proceedings and passed off [REDACTED], [REDACTED],¹⁹¹ as her own fictitious daughter (that she claimed was the result of her rape by [REDACTED])¹⁹²

¹⁸⁰ [CAR-D29-0020-0367](#), pp. 0421-0422.

¹⁸¹ P-2475: T-129, p. 77, line 15 to p. 79, line 27.

¹⁸² [CAR-OTP-2128-1203-R03](#); [CAR-OTP-00000006-R01](#).

¹⁸³ D29-6011: [CAR-D29-0009-0362-R01](#); [CAR-D29-0013-0130](#); [CAR-D29-0014-0071](#); [CAR-D29-0013-0070](#); [CAR-D29-0013-0004](#); [CAR-D29-0013-0096](#); [CAR-D29-0014-0065](#); [CAR-D29-0013-0132](#); see also on subsequent OTP investigations: [CAR-OTP-00001755-R01](#); [CAR-OTP-00000349](#); [CAR-OTP-00000350](#); [CAR-OTP-00000333](#); [CAR-OTP-00000356](#); [CAR-OTP-00000355](#); [CAR-OTP-00000370](#); [CAR-OTP-00000366](#); [CAR-OTP-00000333](#); [CAR-OTP-00000334](#). See also ICC-01/14-01/18-2249-Conf, para. 11.

¹⁸⁴ [CAR-OTP-2114-0192](#).

¹⁸⁵ [CAR-D29-0013-0121](#); [CAR-D29-0010-0020](#); [CAR-D29-0014-0073](#) (chronology of mayor indicating that [REDACTED] whose name appear on the birth certificate was mayor from [REDACTED], before P-2511 alleged date of birth).

¹⁸⁶ D29-6013: [CAR-D29-0009-0324-R01](#); see also [CAR-OTP-00000828](#) for identification purposes.

¹⁸⁷ [CAR-OTP-2126-0413](#); [CAR-OTP-2126-0414](#); [CAR-OTP-2126-0415](#); [CAR-OTP-2126-0416](#).

¹⁸⁸ P-2084: T-235, p. 83, line 26 to p. 100, line 17.

¹⁸⁹ [CAR-D29-0014-0189](#), p. 0246; [CAR-D29-0016-0079-R01](#); [CAR-D29-0013-0100](#); [CAR-D29-0013-0098](#); [CAR-D29-0014-0068](#); [CAR-D29-0013-0132](#); D29-6039: [CAR-D29-0009-0545-R01](#), para. 22.

¹⁹⁰ [CAR-D29-0015-0010](#); [CAR-D29-0010-0015](#); [CAR-D29-0010-0016](#); [CAR-D29-0013-0084](#).

¹⁹¹ [CAR-D29-0014-0159](#); [CAR-D29-0014-0160](#); [CAR-D29-0014-0162](#); D29-6017: [CAR-D29-0009-0260-R01](#); [CAR-D29-0009-0267](#); D29-6025: [CAR-D29-0009-0280-R01](#), para. 24.

¹⁹² [REDACTED] alleges that [REDACTED] died in a road accident while she was still in the ‘anti-balaka’s’ while evidence shows that [REDACTED] passed away on [REDACTED], see [CAR-D29-0016-0050](#).

under the stolen identity of '[REDACTED]'.¹⁹³ Evidence shows that the initial plan of [REDACTED] to use the real [REDACTED] as her daughter did not work as planned and the latter was therefore not relocated out of CAR with [REDACTED].¹⁹⁴ [REDACTED] did however provide documents on the name of [REDACTED] to the OTP and simply decided to attribute this false identity to [REDACTED], with the complicity of [REDACTED] P-2638.¹⁹⁵

ii) CLRV1

68. The successful relocation of OTP witnesses became a model for the other conspirators. P-2638 further sought to secure the same benefits to [REDACTED], V45-0001 by having him complete a fraudulent victim application form under the false identity of [REDACTED] with the assistance of P-2018.¹⁹⁶ V45-0001 together with V45-0002 were selected by the CLRV1 to testify.¹⁹⁷ On the basis of false information they provided, CLRV1 produced birth certificates for both witnesses following an irregular request sent by WhatsApp message to the [REDACTED] Tribunal [REDACTED].¹⁹⁸

69. Evidence demonstrates that V45-0001 used the false surname of '[REDACTED]' in order to hide that he was the son of [REDACTED] Registry and CLRV1 employee.¹⁹⁹ It goes without saying

¹⁹³ ICC-01/14-01/18-2611-Conf-AnxC, p. 5 (family tree of [REDACTED]); [REDACTED]'s real identity is [REDACTED]: [CAR-D29-0013-0025](#) with [CAR-D29-0013-0071](#) and [CAR-D29-0014-0044](#); D29-6010: [CAR-D29-0009-0248-R01](#), para. 16; [CAR-D29-0009-0207](#); [CAR-D29-0016-0031](#); [CAR-D29-0016-0012](#); [CAR-D29-0016-0062](#); [CAR-D29-0016-0064](#); [CAR-D29-0016-0170-R01](#); [CAR-D29-0019-4180](#); [CAR-D29-0010-0054](#) and [CAR-D29-0010-0056](#) for identifying purpose; [REDACTED] D29-6010: [CAR-D29-0016-0053](#); [CAR-D29-0016-0055](#); [CAR-D29-0008-0048](#) / [CAR-D29-0006-1401](#); [CAR-D29-0016-0054](#); [CAR-D29-0016-0074](#); [CAR-D29-0019-3698](#); [CAR-D29-0021-0473](#), p. 0485; [CAR-D29-0021-1823](#); [CAR-D29-0021-3190](#); [CAR-D29-0021-3271](#); [CAR-D29-0010-0009](#); [REDACTED] travelled with [REDACTED], P-2638's [REDACTED]: [CAR-D29-0008-0053](#) / [CAR-D29-0006-1375](#); [CAR-D29-0008-0054](#) / [CAR-D29-0006-1410](#); [CAR-D29-0008-0061](#) / [CAR-D29-0006-1371](#); [CAR-D29-0008-0062](#) / [CAR-D29-0006-1390](#); [CAR-D29-0008-0070](#); [CAR-D29-0016-0159](#); [CAR-D29-0021-0514](#); [CAR-D29-0010-0057](#) for identifying purpose; [CAR-D29-0021-2915](#); [CAR-D29-0008-0061](#) / [CAR-D29-0006-1371](#); [CAR-D29-0021-3212](#) with [CAR-D29-0021-1971](#) and [CAR-D29-0021-1965](#), pp. 1966-1969 (see ICC-01/14-01/18-2240-AnxA, p. 21).

¹⁹⁴ D29-6012: [CAR-D29-0009-0410-R01](#), paras. 32-36; D29-6019: [CAR-D29-0009-0340-R01](#), para. 27; [CAR-D29-0009-0331-R01](#); D29-6010: [CAR-D29-0009-0248-R01](#); [CAR-D29-0009-0201](#); [CAR-D29-0011-0003](#); [CAR-D29-0010-0005](#); see also [CAR-D29-0013-0269](#); [CAR-D29-0010-0184](#); [CAR-D29-0010-0185](#).

¹⁹⁵ D29-6019: [CAR-D29-0009-0340-R01](#), para. 34; [CAR-D29-0011-0002](#); [CAR-OTP-2121-2578](#); [CAR-OTP-2123-0071-R02](#); [CAR-OTP-2123-0077-R02](#); [CAR-OTP-2119-0906](#); [CAR-OTP-00000737-R01](#); [CAR-OTP-0000069-R01](#); [CAR-D29-0015-0003](#).

¹⁹⁶ V45-0001: [CAR-V45-00000004](#); T-246, p. 17, lines 10-19: V45-0001 was taken to [REDACTED] by P-2638. On the fraudulent character of the form see D29-6031: [CAR-D29-0009-0493-R01](#), paras. 16-19; [CAR-D29-0009-0497](#); [CAR-D29-0014-0151](#).

¹⁹⁷ CLRV1 also requested authorisation to call P-2583 which was rejected by the Chamber.

¹⁹⁸ V45-0001: [CAR-V45-00000005](#); [CAR-V45-00000006](#); V45-0002: [CAR-V45-00000008](#); [CAR-V45-00000009](#); regarding the WhatsApp. exchanged [REDACTED] and [REDACTED] tribunal [REDACTED]: [CAR-D29-0016-0135-R01](#); [CAR-D29-0016-0136](#); [CAR-D29-0016-0145](#); D29-6022: [CAR-D29-0009-0217-R01](#); [CAR-D29-0001-0539](#); [CAR-D29-0001-0551](#); [CAR-D29-0001-0552](#).

¹⁹⁹ [CAR-D29-0013-0256](#); [CAR-D29-0013-0252](#); [CAR-D29-0013-0254](#); D29-6028: [CAR-D29-0009-0499-R01](#); [CAR-D29-0013-0265](#); [CAR-D29-0014-0157](#); [CAR-D29-0014-0152](#); [CAR-D29-0009-0499-R01](#); [CAR-D29-0014-0165](#); [CAR-D29-0010-0161](#).

that V45-0001 was never a child soldier.²⁰⁰ Following V45-0001's examination by the Defence, the CLRV1 submitted documents that clearly do not meet the threshold of *prima facie* reliability²⁰¹ and are once again fabricated.²⁰²

70. Likewise, V45-0002 changed his identity to prevent investigations on his false accounts; his real identity is [REDACTED] and [REDACTED].²⁰³ Evidence show that he was never part of the RFACPP.²⁰⁴ V45-0002 also lied about having children and through the intervention of [REDACTED] provided the Court with false birth certificates for his alleged children.²⁰⁵

71. Given the fabrication of their accounts, it would be significantly prejudicial to rely on the accounts of V45-0001 and V45-0002 – as participating victims – as evidence towards establishing Count 29.

C. Insider witness treatment

1. Credibility issues with insider witnesses

72. Caution is necessary when assessing insider witnesses' testimonies due to the unique circumstances that may affect their reliability.²⁰⁶ References to witnesses as 'insiders' have been broadly used to describe individuals who have some connection to the charges or the armed groups involved. However, this designation does not necessarily imply that these witnesses possess the level of connection to the accused as claimed. Many insiders may provide false evidence to serve their own interests due to their position. This inherent bias necessitates a careful approach, and the Chamber must scrutinise insider testimonies thoroughly, considering the potential for self-serving narratives that can undermine the credibility of their accounts and recognising that mere connections to events or groups do not equate to reliable testimony about the accused.

73. Insider witnesses' evidence can be affected by a fear or threat of prosecution, as well as informal or formal promises for protection against prosecution in exchange for testimony both during their

²⁰⁰ D29-6025: T-264, p. 10, line 22 to p. 11, line 27.

²⁰¹ ICC-01/14-01/18-2449-Conf, paras. 22-30.

²⁰² [CAR-V45-00000012](#) (baptism certificate): see D29-6049: [CAR-D29-0009-0759-R01](#), paras. 27-36; [CAR-V45-00000013](#) (vaccination card): see D29-6050: [CAR-D29-0009-0773-R01](#), paras. 16-23; [CAR-V45-00000014](#); [CAR-V45-00000015](#) (birth certificates): D29-6043: [CAR-D29-0009-0692-R03](#); D29-6044: [CAR-D29-0009-0701-R02](#). The Defence also investigated the fabrication of documents disclosed but not formally submitted by the CLRV1: [CAR-V45-00000020](#) (school certificate) D29-6045: [CAR-D29-0009-0708-R01](#); D29-6040: [CAR-D29-0009-0782-R01](#); [CAR-D29-0009-0788-R01](#); [CAR-V45-00000021](#) (school records): D29-6047: [CAR-D29-0009-0729-R01](#); Two are part of the records following the submission of Rule 68(2) Defence statements i.e. [CAR-V45-00000020](#) and [CAR-V45-00000021](#).

²⁰³ D29-6027: [CAR-D29-0009-0239](#); D29-6039: [CAR-D29-0009-0545-R01](#), paras. 14-17; D29-6030: [CAR-D29-0009-0514-R01](#); [CAR-D29-0013-0266](#); D29-6046: [CAR-D29-0009-0722-R01](#), paras. 18-23; [CAR-D29-0016-0155](#); [CAR-D29-0014-0169](#); [CAR-D29-0010-0163](#); [CAR-V45-00000011](#).

²⁰⁴ [REDACTED]; D29-6039: [CAR-D29-0009-0545-R01](#), paras. 19-20.

²⁰⁵ [CAR-V45-00000019](#); D29-6046: [CAR-D29-0009-0722-R01](#), paras. 25-34; see also [CAR-D29-0014-0249](#), pp. 0275-0277.

²⁰⁶ Combs (2010), pp. 136-137; ICC-02/05-01/20-680-Red, para. 14.

initial meetings with investigators and later testimony before the Chamber.²⁰⁷ This can lead to testimonies in which witnesses minimise their own involvement, distort the facts, or present false accounts.²⁰⁸ Given their close proximity to the events, these witnesses may be inclined to exaggerate their accounts or falsely attribute wrongdoing to others in an attempt to shift blame and distance themselves from potential responsibility as ‘a witness with an interest to serve [...] may seek to inculpate others and exculpate himself.’²⁰⁹ This tendency can be further exacerbated when the investigators’ questioning suggests specific individuals of interest, leading witnesses to feel pressured to provide testimony that implicates those individuals.²¹⁰

74. The possibility of a witness's fear of prosecution influencing their testimony cannot be dismissed solely on the basis of assurances provided under Rule 74. Although the provision of these assurances has been considered as a factor to assess the reliability of a witness’s testimony,²¹¹ their presence does not guarantee the absence of unreliable accounts driven by fear or other personal interests.²¹² Despite these assurances of legal security, the effectiveness of the protections may still be perceived as uncertain by witnesses, who could remain concerned about their safety, reputation,²¹³ or potential repercussions on them and their circle. These underlying fears, whether wittingly or unwittingly, and even if legally unfounded, can shape a witness's testimony, leading them to alter their statements to minimise perceived risks. Furthermore, it is noted that Rule 74 assurances are not given when insider witnesses initially provide statements to investigators.²¹⁴ This may lead them to make false claims early on due fear of prosecution and feel compelled to stick to those initial, potentially unreliable accounts when testifying. The lack of such assurances during the initial stages of evidence collection creates a pressure for insider witnesses to maintain consistency with their earlier, potentially unreliable statements, regardless of their truthfulness.

75. Insider witnesses may also be motivated to provide false testimony due to personal animosity

²⁰⁷ P-1339: T-157, p. 55, lines 1-5, p. 60, line 27 to p. 61, line 12; Chlevickaite & Hola (2016), pp. 686-687.

²⁰⁸ P-0487: T-205, p. 13, lines 11-20; T-207, p. 12, line 2 to p. 14, line 1, p. 23, line 27 to p. 26, line 1; P-0954: T-167, p. 61, lines 1-22; McDermott (2024), p. 106.

²⁰⁹ IT-95-14/2-T, para. 629.

²¹⁰ P-2475: T-131, p. 31, lines 9-16.

²¹¹ ICC-01/04-01/06-2842, para. 106; ICC-01/04-02/12-3-tENG, para. 51; ICC-01/05-01/08-3343, para. 229; ICC-01/04-01/07-3436-tENG, para. 85; ICC-02/04-01/15-1762-Red, para. 258.

²¹² See ICC-01/05-01/13-1989-Red, p. 254, paras. 546-548 where Trial Chamber VII found P-198 (D-15)’s ‘account was strategically directed to protect his and Mr. Kilolo’s interests’ despite being provided with Rule 74 assurances which led the Chamber to treat his evidence with caution and consider his testimony had reduced value. See also ICC-01/05-01/13-1989-Red, para. 596 where the Trial Chamber VII considered the testimony of P-201 (D-54) had limited value despite benefiting from Rule 74 assurances as he ‘clearly felt uncomfortable giving evidence on his own conduct and that of Mr. Kilolo’. See also ICC-02/04-01/15-1762-Red, paras. 277, 279, 280. See also ICC-02/04-01/15-1762-Red, paras. 304-305 where the Trial Chamber IX notes that it considered witness P-0145 to not be ‘truly forthcoming about his role in the attack’ despite being provided with Rule 74 assurances, which led the Chamber to no rely on his account of this event.

²¹³ Ambos (2002), pp. 163-164.

²¹⁴ Chlevickaite & Hola (2016), p. 677.

toward the accused.²¹⁵ This bias can arise from past conflicts, rivalries, resentments or an internal conscience bias based on their own culpability in the commission of alleged crimes that create a desire to see the accused held accountable, regardless of the truth.²¹⁶ Such motivations can lead witnesses to distort facts, exaggerate the accused's involvement, or fabricate incidents entirely to incriminate the accused. When personal animosity is a factor, it undermines the reliability of the witness's testimony, as their statements may be influenced more by a desire for retribution than an objective recounting of events. This wish for retribution can also influence the testimony of those affected by other crimes during the relevant events, driven by a deep need for someone to be held accountable, consciously or unconsciously, to emphasize or alter details of their testimony.²¹⁷

76. These witnesses may also be inclined to provide false or exaggerated testimony not only for the privileges explicitly promised to them but also in the hope of receiving benefits, even if those are not formally guaranteed.²¹⁸ The possibility of relocation, financial assistance, or other forms of support for them and their families can motivate witnesses to exaggerate their accounts, implicate certain individuals falsely, to distort facts, or fabricate evidence to align with the OTP's expectations, aiming to enhance their prospects of gaining these advantages and position themselves favourably in the eyes of those who might facilitate these opportunities.²¹⁹ This incentive extends even to those who had no real involvement with the groups in question. Some witnesses may fabricate accounts of their connections to these groups in order to be perceived as insider witnesses, hoping to increase their chances of receiving benefits like relocation.²²⁰

77. Credibility issues may arise for certain witnesses to such an extent that their testimonies cannot be trusted, even if other evidence seems to support aspects of their statements.²²¹ The Defence underlines that the mere 'appearance' of corroboration between insider witnesses cannot salvage the credibility of their testimonies if there are fundamental, irreconcilable discrepancies in their accounts. While some testimonies may seem to support one another superficially, such appearances are undermined when deeper inconsistencies emerge that cannot be reconciled.²²² These significant points of divergence affect the reliability of their evidence, preventing them from revealing any truth on these accounts. Consequently, the relevance and probative value of

²¹⁵ Chlevickaite & Hola (2016), pp. 685-686; Combs (2010), pp. 136-137.

²¹⁶ P-1339: T-157, p. 62, lines 1-4; T-152, p. 57, lines 8-10; P-0954: [CAR-OTP-2048-0171-R03](#), p. 17, paras. 90-91.

²¹⁷ See below, Section IV. B.2.(b)(ii)(e)(ii).

²¹⁸ ICC-01/14-01/18-1333-Conf-Red2, para. 4. Chlevickaite & Hola (2016), p. 685.

²¹⁹ P-1339: T-157, p. 61, line 18 to p. 62, line 5.

²²⁰ V45-0001: T-246, pp. 6-9; T-245, p. 41, lines 6-9; see also ICC-01/14-01/18-2104-Conf, para. 6.

²²¹ ICC-01/04-02/12-271-Corr, para. 168.

²²² ICC-01/04-02/06-2666-Red, para. 672.

the testimonies cannot be salvaged for the Chamber's deliberations by mere similitudes.

2. Evidence of P-2475, P-1339, P-1962, and P-2328 is wholly unreliable

78. Whilst witness testimony can be reliable or unreliable in part, certain aggravating circumstances may lead a Chamber to dismiss the account in its entirety. The Defence has throughout this brief, provided the Chamber with detailed submissions to be taken into account when assessing the weight of individual accounts. However, with respect to the following witnesses, the Defence considers that their accounts are wholly unreliable and as such should be disregarded.

a) [REDACTED] (P-2475)

79. P-2475 carefully orchestrated his lies from the very beginning, planning every aspect of his deceit and fabricating evidence to support it. The witness repeatedly lied about his age despite multiple opportunities to tell the truth,²²³ embellishing details to emphasise his alleged trauma as a child soldier and exploit his victim status in these proceedings.²²⁴ Motivated by personal benefits, P-2475 achieved his goal, securing re-location, monetary expenses, and crucially, a new passport organised by this Court and which is based on fabricated identification documents.

i) Fabrication of identifying details

(a) *Falsification of age*

80. At the heart of P-2475's fabricated account is the extent to which P-2475 went in order to falsify his age in support of his alleged status as a child soldier. As acknowledged by the OTP, this involved the premeditated step to obtain fabricated documents to falsely allege that he was born in 1999. Following Defence investigations, P-2475 was presented with two Facebook accounts, under his name [REDACTED], bearing his picture and for which the year of birth registered is 1994.²²⁵ Rather than tell the truth, P-2475 doubled down with verifiable lies, claiming that: (i) he had to increase his age in accordance with Facebook regulations, and (ii) his age could be verified by his [REDACTED] as produced by the OTP.²²⁶ This was demonstrably untrue noting that: (i) there was no such restriction for P-2475 to create a Facebook account,²²⁷ (ii) even if it was accurate, his suggested birth date of 1999 would have still meant he would have been 19 years old at the time of the creation of his account; and (iii) his [REDACTED] was forged and rebutted

²²³ P-2475: T-133, p. 67, lines 6-7, 15-24; T-133, p. 67, line 27 to p. 68, line 8; T-133, p. 70, line 26 to p. 71, line 4, p. 71, lines 20-27, p. 72, lines 8-12.

²²⁴ Email from the VWU dated 20 May 2022 at 20:36 Outcome Vulnerability Assessment CAR-OTP-2475.

²²⁵ [CAR-D29-0016-0066](#); [CAR-D29-0016-0071](#).

²²⁶ P-2475: T-133, p. 67, lines 12-26 and p. 68, lines 11-12.

²²⁷ [CAR-D29-0023-0001](#).

by documents obtained by the Defence from [REDACTED] including copies of the [REDACTED] registry confirming that he is born in 1994.²²⁸

81. When P-2475's efforts to misguide the Court— by pointing to a forged [REDACTED] certificate— failed, his demeanour betrayed him as he merely smirked and maintained his brazen lie.²²⁹ Nor was this merely a matter whereby P-2475 was 'caught off guard' in a lie in Court. Indeed, P-2475 had pre-empted questions with regard to his birth date and was directly implicated in the falsification of the documents as evidenced by the Facebook conversation where P-2475 specifically requested his [REDACTED], to assist in the fabrication of the [REDACTED] certificate.²³⁰

(b) Falsification as to the death of his mother

82. In order to support the lie about his age, and avoid any investigation as to his actual identity, P-2475 further lied about the death of his [REDACTED], [REDACTED],²³¹ even in response to questions from the Presiding Judge.²³² [REDACTED] is alive, remained in contact with P-2475 both directly and through his ex-partner,²³³ and would have visited him approximately once a year during the holidays, before and after the events of 2013-2014 for periods of about a month each time.²³⁴ P-2475 was undeniably aware that his [REDACTED] was alive - having named one of his daughters [REDACTED] after his mother [REDACTED]²³⁵ - and repeatedly and consciously lied about her death.²³⁶

(c) Fabrication of membership: evidence establishing that P-2475 was not a RFACPP member

83. The evidence from family members and friends of P-2475 overwhelmingly establishes that P-2475 was not in the RFACPP and more specifically that he did not leave [REDACTED] for any extended period of time during the events.²³⁷

84. P-2475 pretends that he joined the RFACPP before 25 June 2013 in Gbangba.²³⁸ Yet, P-2475's [REDACTED], D29-6048, explains that P-2475 and her [REDACTED] started to see each before

²²⁸ [CAR-OTP-2128-1197](#); [CAR-D29-0013-0004](#); [CAR-D29-0013-0096](#); [CAR-D29-0014-0065](#); subsequently confirmed by the OTP: [CAR-OTP-00000320-R01](#); [CAR-OTP-00000333](#); [CAR-OTP-00000334](#).

²²⁹ P-2475: T-133, p. 69, lines 6-20, p. 70, line 20 to p. 71, line 4, p. 71 line 20 to p. 72, line 12.

²³⁰ [CAR-D29-0020-0367](#), pp. 0421-0423.

²³¹ P-2475: T-129, p. 9, lines 1-2; T-130, p. 73, lines 23-24, p. 75, lines 27-28.

²³² P-2475: T-130, p. 75, lines 27-28.

²³³ [REDACTED]; see also [CAR-D29-0016-0178](#).

²³⁴ [REDACTED].

²³⁵ [REDACTED].

²³⁶ P-2475: T-129, p. 9, lines 1-2.

²³⁷ D29-6018: [REDACTED], para. 23; see also [REDACTED], para. 22; D29-6048: [REDACTED], para. 32.

²³⁸ P-2475, T-132, p. 28, lines 2-23.

the departure of the Seleka [REDACTED] i.e. in the period up to January 2014.²³⁹ P-2475 was regularly [REDACTED].²⁴⁰ Likewise, D29-6039 stated that she saw P-2475 at the [REDACTED] market during one of her stays [REDACTED] in July 2013.²⁴¹ More specifically, P-2475 attended [REDACTED] 2013.²⁴² The evidence also establishes that P-2475 was present [REDACTED] on the day of the RFACPP's arrival (i.e. 26/27 January 2014).²⁴³ D29-6048 recalls that P-2475 went with family members to witness the arrival and that he would have recalled the scene to D29-6048 thereafter.²⁴⁴ [REDACTED] also explains that he was commenting on the arrival of the RFACPP with P-2475 and another friend.²⁴⁵

85. These accounts are rooted in the fact that P-2475 was working [REDACTED] and had several other jobs in [REDACTED]. D29-6048 regularly saw P-2475 at the [REDACTED].²⁴⁶ This is independently corroborated by D29-6018 who also explains that [REDACTED] had different jobs including selling [REDACTED] before and after the arrival of the RFACPP.²⁴⁷ [REDACTED] and D29-6039 both testified to the fact that P-2475 sold [REDACTED] in 2013 and 2014.²⁴⁸ [REDACTED] also testified that he regularly saw P-2475 – nicknamed [REDACTED] - in [REDACTED] during the relevant period of time as they [REDACTED] together.²⁴⁹ [REDACTED] also explains that P-2475 was buying [REDACTED] at his shop.²⁵⁰ These testimonies are irreconcilable with P-2475's claim to have joined before his birthday [REDACTED] and to have never left the group as he was allegedly prohibited from doing so.²⁵¹
86. P-2475 is alone in alleging that he was a member of the RFACPP. Several OTP witnesses, including P-1647, P-1839 and P-1786 – all of whom joined the movement at Yamwara in December 2013 and were present along the PK9-Mbaïki axis – did not know anyone named [REDACTED] and did not identify P-2475 as [REDACTED].²⁵² In this respect whilst P-1839

²³⁹ D29-6048: [REDACTED], paras. 18-20; [REDACTED].

²⁴⁰ D29-6048: [REDACTED], paras. 18-20; [REDACTED].

²⁴¹ D29-6039: [REDACTED], paras. 18-21.

²⁴² D29-6018: [REDACTED], para. 14; [REDACTED]; See also [CAR-D29-0009-0562-R01](#)[REDACTED] and [CAR-D29-0009-0568](#); [CAR-D29-0010-0204](#); [CAR-D29-0009-0570](#); [CAR-D29-0009-0572](#); [CAR-D29-0009-0574](#).

²⁴³ D29-6048: [REDACTED] D29-6048: [REDACTED], paras. 26-28.

²⁴⁴ D29-6048: [REDACTED], para.28; see also D29-6048: [REDACTED].

²⁴⁵[REDACTED]. On the contradiction raised by the OTP regarding the witness' identification of Sangaris before the 5th December (T-261, p. 9, line 22 to p. 11, line 1), the Defence clarifies the witness' confusion arising from the continuing presence of French militaries in CAR before the 5 December 2013 (see [CAR-OTP-2001-2769](#) at 2802; D29-5013: T-285, p. 64, line 18 to p. 65, line 27; P-0876: T-088, p. 22, lines 24-26) and the fact that the name 'Sangaris' became widely associated with French military operations in CAR.

²⁴⁶ D29-6048: [REDACTED], para. 30; [REDACTED]

²⁴⁷ D29-6018: [REDACTED], para. 20.

²⁴⁸ [REDACTED]; D29-6039: [REDACTED], paras. 18-21.

²⁴⁹ [REDACTED].

²⁵⁰ [REDACTED].

²⁵¹ P-2475: T-129, p. 15, lines 24-26, p. 31, lines 13-14.

²⁵² P-1647: T-194, p. 19, lines 12-19; P-1839: T-172, p. 62, lines 18-20, p. 59, line 21 to p. 60, line 10; P-1839: T-170, p. 64, line 20.

states that she knew a [REDACTED] who was living at Mr. Yekatom's house in Samba, this evidently did not corroborate P-2475's account. Similarly, whilst P-1786 testified that he heard about a person nicknamed [REDACTED] and would be able to recognise him on photograph, the OTP deliberately neglected to show P-2475's picture.²⁵³ More tellingly, where the OTP did opt to present a photograph to P-1647 and P-1786 it used a photograph of an unidentified individual taken at Yamwara,²⁵⁴ rather than an actual photograph of P-2475 in OTP holdings.²⁵⁵ This was a transparent – and failed - attempt to confuse P-1647 and P-1786 into misidentifying the individual as P-2475 by virtue of the familiar background. Notably however, [REDACTED], D29-6018, [REDACTED] and D29-6048 confirmed that the photograph used by the OTP was not P-2475.²⁵⁶

ii) Fabrication of his testimony

(a) *P-2475's abduction*

87. P-2475's testimony reveals calculated adjustments designed to maintain his fabricated story when tested. P-2475's account that he would have been abducted by a man wearing a red bandana is wholly fabricated and based on an illogical narrative. It is P-2475's account that the man was dressed in military uniform and armed with a knife and firearm,²⁵⁷ casually wandering around PK5 at night—a Seleka stronghold—while the Seleka were actively hunting down FACA soldiers who had no choice but to flee and hide.²⁵⁸ To bolster his narrative, P-2475 embellishes with further lies, including his claim that the man would have referred to him as a 'child', despite the fact he would have been an adult at the time – a detail designed to (falsely) garner credibility.²⁵⁹

88. Moreover, P-2475 changed a major aspect of his first narrative to the OTP investigators,²⁶⁰ testifying that he was alone when the man stopped him while he was going home from PK5 to Boeing.²⁶¹ When confronted with this discrepancy by the OTP, he shifted his narrative, indicating that it was only when he allegedly arrived at the base in Gbangba that he saw [REDACTED] who he initially claimed was with him when he was stopped.²⁶² During his examination by the Defence, P-2475 spontaneously contradicts his previous account saying that he met

²⁵³ P-1786: T-197, p. 31, line 16 to p. 32, line 5.

²⁵⁴ [CAR-OTP-2095-5254](#).

²⁵⁵ [CAR-D29-0010-0028](#), #8.

²⁵⁶ [REDACTED]; D29-6048: [REDACTED], para. 34; [REDACTED]; D29-6018: [REDACTED], p. 0565, para. 'Photographie CAR-OTP-2095-5254'.

²⁵⁷ P-2475: T-129, p. 12, lines 12-14.

²⁵⁸ P-2475: T-129, p. 12, line 4.

²⁵⁹ P-2475: T-129, p. 12, line 7: [REDACTED].

²⁶⁰ P-2475 indicating in his statement that he and another individual named [REDACTED] were forced by a man to accompany him at a base (P-2475: T-132, p. 32, lines 9-11 referring to paragraphs 37 to 39 of this statement).

²⁶¹ P-2475: T-129, p. 13, lines 19-21.

²⁶² P-2475: T-129, p. 14, lines 5 to 10.

[REDACTED] at the base in Yamwara.²⁶³ The evolving nature of P-2475's account— in relation to an event, which by all accounts would be of significance – is in and of itself, indicative of the implausible nature of P-2475's entire testimony.

89. This is only further compounded by the fact that there is reason to believe that P-2475 was forced to change his narrative once he learned of Defence investigations in [REDACTED]. On [REDACTED], the day after the Defence interview with [REDACTED], P-2475 received a Facebook message from a friend warning him that he should stop contacting people in [REDACTED] because there is an ongoing investigation.²⁶⁴ P-2475's attempt to rectify his account in the knowledge of the Defence investigation was observed in real-time. When examined by the OTP in relation to [REDACTED]'s age, P-2475 candidly responded that [REDACTED] was 17-18 years old.²⁶⁵ Within seconds, he retracted this statement, adjusting [REDACTED]'s age to 15 to more closely align with his own falsely claimed age of 13,²⁶⁶ —a deliberate fabrication, as it is established that P-2475 was, in fact, the same age as [REDACTED], both being 18/19 at the time.²⁶⁷ This sudden shift from 17-18 to 15 years old is not a simple error but a calculated attempt revealing P-2475's awareness that his initial response could undermine his lie about his age.

(b) Presence of child soldiers in the RFACPP

90. P-2475 fabricated evidence to claim he was under 15 years old, fully aware of the severe implications of such an allegation against Mr. Yekatom. This deception taints his entire testimony which is centred on his description of the alleged presence of children at the base including: young children,²⁶⁸ allegedly trained with weapons;²⁶⁹ children mixed with adults;²⁷⁰ children mistreated by chiefs;²⁷¹ and even children assigned to guard the base or children at the Yamwara roadblocks.²⁷² P-2475 consistently estimates the ages of these children based on his own age,²⁷³ which the OTP has admitted was a lie. The entirety of P-2475's account is premised on his alleged child soldier status and it was on this basis that the questions were formulated in Court – by the

²⁶³ P-2475: T-132, p. 32, lines 2-8.

²⁶⁴ P-2475 acknowledges that complete name of [REDACTED] is [REDACTED] (P-2475: T-131, p. 84, lines 3-12) and that they knew each other from [REDACTED]. P-2475: T-129, p. 9, line 25 to p. 30, line 11; [CAR-D29-0010-0140](#); ICC-01/14-01/18-2240-AnxA, p. 11 (19, 28 and 29 May 2020).

²⁶⁵ P-2475: T-129, p. 10, lines 14-15.

²⁶⁶ P-2475: T-129, p. 11, lines 20-21.

²⁶⁷ [CAR-D29-0013-0049](#).

²⁶⁸ P-2475: T-129, p. 19, lines 21-23.

²⁶⁹ P-2475: T-129, p. 22, lines 12-14.

²⁷⁰ P-2475: T-129, p. 22, lines 21-22.

²⁷¹ P-2475: T-129, p. 30, lines 19-20.

²⁷² P-2475: T-129, p. 33, line 5, see also p. 33, line 23, p. 34, lines 2, 4, 8, 9, p. 56, lines 18-19.

²⁷³ P-2475: T-129, p. 32, lines 2-12, p. 61, line 26.

parties and the Chamber.²⁷⁴ This is neatly demonstrated with reference to questions concerning P-2475's description of events on 5th December.²⁷⁵

91.P-2475's lie has permeated his testimony– he falsely claimed he was seen as a child, saying his alleged kidnapper called him '[REDACTED]',²⁷⁶ that he was scared at the base because he was [REDACTED] that Ouandjio remarked [REDACTED],²⁷⁷ and that the others were happy because he was [REDACTED] and had [REDACTED].²⁷⁸

(c) False claim Muslims killed and buried by members of the group

92.P-2475's claim that Muslim prisoners were allegedly killed and buried in shallow graves at Yamwara behind the classroom cannot be believed.²⁷⁹ Objective evidence as describes in Section IV.B.2.v).a) directly contradicts the witness' account and strongly suggests another attempt to falsely incriminate Mr. Yekatom.

(d) Falsification concerning alleged killing of Djido Saleh

93.P-2475's testimony regarding Saleh's death reveals another attempt to falsely incriminate Mr. Yekatom. From the outset, the witness claimed that only the 'anti-balaka' were responsible for the killing and alleged that a FACA chief mutilated the genitals.²⁸⁰ When the Presiding Judge pressed for basic details,²⁸¹ P-2475 stumbled, unable even to provide basic description of the individual, such as their gender.²⁸² Rather than correct the Presiding Judge's assumptions,²⁸³ he became evasive, requesting a photo as if caught off guard by the questioning.²⁸⁴ As the Presiding Judge continued to probe,²⁸⁵ his inability to offer straightforward answers became more apparent describing the perpetrator's clothing (a white shirt) rather than identifying essential characteristics like gender.²⁸⁶

94.The inconsistencies escalated further with his description of the weapon used. Initially, he claimed that Saleh was killed by a chief with an AK-47,²⁸⁷ and that a FACA cut off the genitals,²⁸⁸ but

²⁷⁴ E.g. P-2475: T-129 [ENG], p. 22, lines 10-22; T-129, p. 30, lines 11-15, p. 31, lines 6-14, p. 45, lines 8-14.

²⁷⁵ P-2475: T-129, p. 43, lines 12-16, lines 24-28, p. 45, lines 5-14.

²⁷⁶ P-2475: T-129, p. 12, line 7.

²⁷⁷ P-2475: T-129, p. 13, lines 5-6: [REDACTED], p. 14, lines 13-14.

²⁷⁸ P-2475: T-129, p. 14, lines 25-26: [REDACTED]; p. 15, line 6: [REDACTED]

²⁷⁹ P-2475: T-129, p. 58, lines 13-18, p. 59, lines 19-24, see also T-129, p. 59, line 26 to p. 60, line 4, p. 65, line 16, lines 23-27 showing [CAR-OTP-2122-9818](#).

²⁸⁰ P-2475: T-130, p. 23, lines 9-10, p. 26, lines 17-18, p. 26, lines 26-28.

²⁸¹ P-2475: T-130, p. 28, lines 2-11.

²⁸² P-2475: T-130, p. 28, lines 12-14.

²⁸³ P-2475: T-130, p. 28, lines 2-11.

²⁸⁴ P-2475: T-130, p. 28, lines 12-14.

²⁸⁵ P-2475: T-130, p. 28, lines 18-22.

²⁸⁶ P-2475: T-130, p. 28, lines 23-24.

²⁸⁷ P-2475: T-130, p. 29, lines 15-16.

²⁸⁸ P-2475: T-130, p. 23, lines 9-10, p. 26, lines 26-28.

upon viewing OTP video evidence, which showed a female perpetrator, he abruptly shifted his story alleging that it was [REDACTED],²⁸⁹ while conveniently [REDACTED].²⁹⁰ This shift underscores his attempt to mould his story around the evidence rather than provide consistent facts.²⁹¹

95. Adding to the contradictions, the witness claimed that the individual moving Saleh's body was called [REDACTED],²⁹² basing this solely on what he overheard in the video rather than first-hand knowledge.²⁹³ When confronted, he retracted his claim to know [REDACTED].²⁹⁴ Unaware that the Court had evidence identifying this individual as [REDACTED],²⁹⁵ P-2475's reliance on assumptions from the footage further exposed the flaws in his account. More importantly he claims Mr. Yekatom and Ouandjio were present²⁹⁶ whilst CDRs attributed to Mr. Yekatom establish the contrary,²⁹⁷ and Ouandjio having been killed weeks prior.²⁹⁸ Ultimately, the more the witness was questioned, the more his narrative fell apart, revealing his intent to incriminate Mr. Yekatom without expecting to substantiate his claims with verifiable details.

iii) Inconsistent account

(a) *Evolving nature of contacts*

(i) *On sections and his chief of section*

96. P-2475 has made numerous contradictory statements regarding sections and section chiefs, initially stating there were sections in Gbangba.²⁹⁹ Subsequently, he asserted that sections did not exist in Gbangba before reaching Yamwara.³⁰⁰ P-2475 first asserted that his section chief in Gbangba was [REDACTED].³⁰¹ He then contradicted himself, stating that [REDACTED] was never his section chief.³⁰² He initially named [REDACTED] as his chief of section in Yamwara,³⁰³ but later changed this to [REDACTED].³⁰⁴ This contradicts his [REDACTED] statement, in

²⁸⁹ P-2475: T-130, p. 31, lines 17-20.

²⁹⁰ P-2475: T-130, p. 31, lines 26-28 in which P-2475 also appears to now say [REDACTED] mutilated the body.

²⁹¹ P-2475: T-130, p. 32, lines 17-18.

²⁹² P-2475: T-130, p. 32, lines 27-28, p. 33, lines 1-3, p. 35, lines 6-13, line 28 to p. 36, line 2.

²⁹³ [CAR-OTP-2107-3026](#), p. 3028, line 11.

²⁹⁴ P-2475: T-133, p. 43, lines 25 to p. 44, line 8.

²⁹⁵ P-1813: T-182, p. 59, lines 21-28; P-1666: T-231, p. 44, line 28 to p. 45, line 5.

²⁹⁶ P-2475: T-130, p. 24, lines 17-18.

²⁹⁷ See CST [CAR-D29-0004-1176](#) which shows a call between P-1813 and Mr. Yekatom on 28 February 2014, the day of Saleh's murder. The column 'Orange Site Name' indicates that during this call Mr. Yekatom's phone activated a cell in Bimbo, and not Mbaiki as alleged by P-2475. Original data for this call available in CDR [CAR-OTP-2054-1481](#), row 234832.

²⁹⁸ P-1666: T-232, p. 6, lines 7-14; P-2353: [CAR-OTP-2100-0226-R03](#), para. 56; P-2389: [CAR-OTP-2122-4458-R03](#), para. 61; P-2041: [CAR-OTP-2122-4398-R02](#), para. 62.

²⁹⁹ P-2475: T-129, p. 21, lines 12-14.

³⁰⁰ P-2475: T-132, p. 50, lines 1-3.

³⁰¹ P-2475: T-129, p. 30, lines 22-25.

³⁰² P-2475: T-132, p. 52, line 18.

³⁰³ P-2475: T-129, p. 30, lines 22-25.

³⁰⁴ P-2475: T-132, p. 53, line 10.

which he identified [REDACTED] as the section chief in Yamwara.³⁰⁵ When confronted with these inconsistencies, the witness attempted to change the subject, as he could not provide an explanation.³⁰⁶

(ii) *On his alleged injury*

97.P-2475's account of his injury is also riddled with inconsistencies. He initially claimed that [REDACTED] injured him with a [REDACTED].³⁰⁷ When confronted with the apparent discrepancy with his statement where P-2475 says that he does not remember the name of the chief who inflicted him the injury, despite referring to chief [REDACTED] elsewhere in his statement,³⁰⁸ he maintained that he was beaten by [REDACTED] but this time at Yamwara, and not in the bush anymore.³⁰⁹ Additionally, he offered conflicting reasons for the incident—first stating it happened because he went out to get food against orders,³¹⁰ and then suggesting it was due to a lack of money.³¹¹ The story's contradictions, especially given his claim that the injury 'm'a beaucoup marquée', make it utterly not credible.³¹²

(iii) *On being given a firearm/pistol to kill*

98.P-2475 claimed that at Yamwara, Chief [REDACTED] was the one who [REDACTED],³¹³ stating it was [REDACTED].³¹⁴ Yet, in his statement, he says it was Ouandjio who [REDACTED].³¹⁵ Later, he becomes tangled in contradictions, denying that Ouandjio [REDACTED], only to later deny it, asserting that only [REDACTED] and Ouandjio ever made such demands.³¹⁶

(iv) *On the 5th December Operation*

99.P-2475's testimony on the 5 December Operation is likewise not credible due to significant contradictions. First, he claimed to have no direct interaction with the Seleka during the 5th December Operation,³¹⁷ yet in his prior recorded statement claimed [REDACTED].³¹⁸ This contradiction remained unexplained despite repeated questioning.³¹⁹ Second, while he initially

³⁰⁵ P-2475: T-132, p. 54, lines 17-19.

³⁰⁶ P-2475: T-132, p. 54, lines 26-28, p. 55, line 1.

³⁰⁷ P-2475: T-129, p. 29, lines 7-17.

³⁰⁸ P-2475: T-132, p. 63, lines 11-14.

³⁰⁹ P-2475: T-132, p. 61, line 2 to p. 62, line 12.

³¹⁰ P-2475: T-132, p. 63, lines 25-27.

³¹¹ P-2475: T-132, p. 63, lines 4-9.

³¹² P-2475: T-129, p. 29, line 7.

³¹³ P-2475: T-129, p. 60, lines 21-24.

³¹⁴ P-2475: T-133, p. 28, lines 21-28.

³¹⁵ P-2475: T-133, p. 29, lines 1-4.

³¹⁶ P-2475: T-129, p. 61, lines 12-14; T-133, p. 29, lines 5-9, p. 30, lines 14-28, p. 31, lines 1-2.

³¹⁷ P-2475: T-133, p. 14, lines 2-4.

³¹⁸ P-2475: T-133, p. 16, lines 9-14.

³¹⁹ P-2475: T-133, p. 16, lines 6-7, p. 18, lines 10-11, 16-18, 22-23, 28, p. 19, lines 1-2.

stated that no women were killed, only beaten,³²⁰ he later [REDACTED];³²¹ only to recant and deny [REDACTED] when confronted.³²² These inconsistencies and the refusal to clarify them are fatal to the credibility of his account.

(b) Uncorroborated accounts

100. P-2475's attempts to demonstrate that he would have known RFACPP members is wholly unreliable and in direct contradiction with the evidence of RFACPP members called by the OTP. For example, P-2475 claims that: (i) [REDACTED] was in Gbanga and joined the RFACPP before the 5th December Operation,³²³ (ii) that [REDACTED] lived in a house with Mr. Yekatom at Yamwara,³²⁴ (iii) that [REDACTED] participated alongside [REDACTED] in the 5th December Operation,³²⁵ and (iv) that Mr. Yekatom would have been present during the looting of [REDACTED] alongside [REDACTED].³²⁶ However, [REDACTED] testimony does not support any of these assertions as [REDACTED] denied: (i) that Mr. Yekatom was present during the [REDACTED] pillaging,³²⁷ and (ii) that [REDACTED] in the same house as Mr. Yekatom in Yamwara.³²⁸ [REDACTED] further asserted that [REDACTED] would have joined the RFACPP after 5 December 2013.³²⁹ P-1839 and P-1647 also contradicted P-2475's account on a vehicle being used and parked at Yamwara.³³⁰ P-2475 is also contradicted by several witnesses, on the circumstances of Seda's death, notably by P-1647, who was injured in the incident.³³¹

iv) Scheme surrounding P-2475's testimony

101. The evidence demonstrates connections between P-2475 and ESF conspirators in relation to his false testimony: P-2018 attempted to arrange a meeting between P-2475 and [REDACTED] apparently related to the Court,³³² and P-2580 went on mission [REDACTED] following instruction by the OTP to collect [REDACTED] records for P-2475. In the same week, P-2475 contacted [REDACTED] regarding the processes involved to fabricate [REDACTED].

³²⁰ P-2475: T-129, p. 38, lines 19-20.

³²¹ P-2475: T-133, p. 18, lines 12-15.

³²² P-2475: T-133, p. 19, lines 14-17.

³²³ P-2475: T-132, p. 46, lines 8-18.

³²⁴ P-2475: T-133, p. 21, line 26 to p. 22, line 8.

³²⁵ P-2475: T-129, p. 38, lines 23-28.

³²⁶ P-2475: T-129, p. 63, lines 2-7; T-133, p. 26, line 19 to p. 27, line 11.

³²⁷ [REDACTED].

³²⁸ [REDACTED].

³²⁹ [REDACTED].

³³⁰ P-2475: T-133, p. 23, lines 22-28; P-1839: T-171, p. 77, lines 20-21. See also P-1647: T-195, p. 36, lines 13-14 in which P-1647 indicates that at Yamwara the RFACPP didn't have a white Toyota which directly contradicts P-2475 who claimed that the vehicle in question was a white Hilux (i.e. a model of Toyota).

³³¹ P-2475: T-133, p. 37, lines 2-3; P-1647: [CAR-OTP-2050-0654-R02](#), paras. 53-60.

³³² P-2475: T-131, p. 38, line 25 to p. 39, line 12, p. 40, line 8 to p. 41, line 8, p. 41, line 23 to p. 42, line 13.

102. As set out below, the evidence establishes that P-2580 and P-2018 are implicated in providing false narratives for various OTP witnesses who were initially intended to be relied on as alleged child soldiers, and it is reasonable to infer that this would have included P-2475. Whilst Defence investigations have shed light on aspects of the scheme surrounding the fabrication of P-2475's account, it was however barred in obtaining the information that could have uncovered the entirety of the scheme.³³³

v) Motive to provide false account

103. Whilst the Defence is not obliged to identify a motive for P-2475's unreliable account, he was incentivised by monetary gains. CAR is one of the poorest countries in the world.³³⁴ The ICCPP represents the opportunity for financial support, resettlement, and education; in sum, the opportunity for new life. Contrary to what he kept pretending during his entire testimony, P-2475 is no different from the other participants of the fraudulent ESF [REDACTED]. Like them, he simply seized the opportunity offered by the NGO ESF at the time of the events to earn some money and participate in professional training; and later on, through the Court and the ICCPP, to have a better life. Especially since P-2018 informed him that the ICC was investigating Mr. Yekatom and wanted to meet him.³³⁵

104. P-2475 is part of a scheme from which he has emerged victorious, just like P-2620 and P-2582, which explains his willingness to lie about his two accomplices. He was given four opportunities to clarify his association with [REDACTED]. On the first three occasions, he outright denied knowing her.³³⁶ By the fourth attempt, P-2475 said that he recognised the person in the picture but that he did not know her name.³³⁷ He also said that he absolutely did not know if [REDACTED]. During the entire line of questioning by the Defence, as to whether he recalls [REDACTED], P-2475 was smirking and feigning. This too was all part of an act: P-2475 and [REDACTED] knew each other very well; and in fact within hours of the conclusion of his testimony [REDACTED].³³⁸ P-2475 adopted similar posture regarding [REDACTED], denying any close relation with the latter.³³⁹

105. P-2475's repeated lies and inconsistencies throughout his testimony do not stand against the rest of the evidence. His obvious lack of regard to his oath to tell the truth requires the exclusion of his

³³³ ICC-01/14-01/18-2723-Conf; P-2475: T-133, p. 69, line 18 to p. 70, line 5.

³³⁴ See D29-5015: T-254, p. 54, lines 9-11.

³³⁵ P-2475: T-129, p. 41, lines 15-28, p. 42, lines 1-28, p. 43, lines 1-13.

³³⁶ P-2475: T-133, p. 49, lines 17-21, p. 58, line 24 to p. 62, line 19, p. 63, line 20 to p. 64, line 26.

³³⁷ P-2475: T-133, p. 61, lines 16-25: see also [CAR-D29-0010-0030](#) and [CAR-D29-0016-0033](#).

³³⁸ ICC-01/14-01/18-2240-Conf-AnxA, p. 28, '[REDACTED] 2022' and '[REDACTED] 2022'.

³³⁹ P-2475: T-133, p. 57, lines 8-19; see also [CAR-D29-0020-5573](#), pp. 5594 to 5600.

evidence, which cannot be used to sustain the charges against Mr. Yekatom.

b) [REDACTED] (P-1339)

106. Throughout P-1339's testimony, it became evident that his narrative shifted readily, adapting from one position to another, as if he could be directed at will. Compounding this was his apparent incentive to secure personal gains from his testimony, stemming from an alleged sense of being underappreciated within the RFACPP.³⁴⁰ As a result, P-1339's testimony is littered with both major and minor contradictions—both inter- and intra— or otherwise raises baseless allegations.

i) P-1339's comments on the veracity of his statement

107. Despite the fact P-1339 testified *viva voce*, his statement was frequently presented or read out to him which consequently played a significant role as regard to the content of his in-court testimony.

108. The significance of P-1339's statement was evident from the OTP's examination, which focused on his understanding of the duty to provide truthful and thorough information during meetings with investigators, with legal and interpreter assistance.³⁴¹ P-1339 also confirmed that investigators reassured him their focus was on senior figures,³⁴² reducing any pressure to falsify his account. He was given the opportunity to review and amend his statement,³⁴³ with the assistance of an interpreter,³⁴⁴ and affirmed at the start of his testimony that he was satisfied with its content.³⁴⁵

109. Despite these assurances, as P-1339's testimony progressed, he raised numerous issues concerning his statement in an attempt to explain the increasing contradictions highlighted by the Chamber and the parties alike.

110. When confronted with such inconsistencies, P-1339 reverted to unsound reasoning citing: (i) his deficiencies in French,³⁴⁶ which omits the fact that he was assisted by interpreters; (ii) the non-exhaustive nature of his statement,³⁴⁷ which omits his earlier admission that he understood that he should be exhaustive,³⁴⁸ (iii) mistakes provided to the investigators,³⁴⁹ saying that he had not expressed himself well so 'they' [the investigators] wrote things in his statement,³⁵⁰ or (iv) outright

³⁴⁰ P-1339: T-152, p. 57, lines 5-11: [REDACTED] See also, P-1339's testimony must be treated with caution at the outset given his status as an insider / 'accomplice' witness interviewed under article 55(2); ICC-01/14-01/18-1458-Conf, para. 2.

³⁴¹ P-1339: T-151, p. 9, line 18 to p. 10, line 15.

³⁴² P-1339: T-157, p. 61, lines 5-12.

³⁴³ P-1339: T-151, p. 10, lines 20-27.

³⁴⁴ P-1339: T-151, p. 10, lines 20-27.

³⁴⁵ P-1339: T-151, p. 14, lines 21-24.

³⁴⁶ P-1339: T-157, p. 71, lines 24-28.

³⁴⁷ P-1339: T-158, p. 51, lines 6-21; T-159, p. 45, line 7 to p. 47, line 16.

³⁴⁸ P-1339: T-151, p. 9, line 18 to p. 10, line 15.

³⁴⁹ P-1339: T-158, p. 4, lines 13-23, p. 6, line 28 to p. 7, line 13.

³⁵⁰ P-1339: T-159, p. 5, lines 1-12.

denying that he said what is written in his statement,³⁵¹ which omits the multiple occasions he had to correct it.

111. P-1339's inconsistency and incoherence also applied to the corrections made to his statement and his explanations thereof. As an example, portions of the statement were taken out despite the witness confirming that they were true: in paragraph 103 the name of an individual [REDACTED] is crossed out despite P-1339 confirming that the information is correct.³⁵² P-1339 also initially denied being the author of the corrections at paragraph 41 of his statement.³⁵³ However, when confronted, P-1339 suddenly said that he was in fact the one who corrected the statement.³⁵⁴ When asked why under oath he initially said he was not the one who modified the statement, P-1339 unconvincingly responded that he was 'hot headed'.³⁵⁵

112. P-1339 denied being the author of some of the corrections made to his statement as regard [REDACTED]. He denied having crossed out the word [REDACTED] on his statement,³⁵⁶ denied having asked anybody to cross over this word in paragraph 67 of his statement,³⁵⁷ and denied having said to the interpreter who assisted him during the reading of his statement that [REDACTED];³⁵⁸ an answer which is in total contradiction with the Registry's report on the corrections made by P-1339.³⁵⁹

113. P-1339 defended his corrections to the transcription of an audio-recorded OTP interview, claiming inaccuracies in the original transcription.³⁶⁰ However, when the Defence played the audio recording,³⁶¹ it revealed that the transcription accurately reflected P-1339's statements.³⁶² Confronted with his use of alleged transcription issues to justify inconsistencies in his narrative, the witness refused to acknowledge this, insisting he neither lied nor erred, despite clear evidence from the recording to the contrary.³⁶³

114. P-1339's pattern of giving multiple contradictory accounts regarding important events of his testimony, and the manner in which he tries to find excuses to explain them, deprives his evidence

³⁵¹ P-1339: T-158, p. 30, lines 11-13.

³⁵² P-1339: T-159, p. 14, line 10 to p. 16, line 28.

³⁵³ P-1339: T-152, p. 45, lines 6-12.

³⁵⁴ P-1339: T-158, p. 72, line 4 to p. 74, line 5.

³⁵⁵ P-1339: T-158, p. 74, line 28 to p. 75, line 20.

³⁵⁶ P-1339: T-159, p. 60, line 7 to p. 61, line 17.

³⁵⁷ P-1339: T-159, p. 63, lines 4-9.

³⁵⁸ P-1339: T-159, p. 63, line 25 to p. 64, line 16.

³⁵⁹ ICC-01/14-01/18-1584-Conf-AnxA: Email from VWU to the Chamber & Parties titled 'RE: Issue in relation to the correction of P-1339's statement' sent on 5 September 2022 at 12:14.

³⁶⁰ P-1339: T-160, p. 42, line 14 to p. 43, line 6.

³⁶¹ P-1339: T-160, p. 44, lines 16-27 in which audio (not submitted in evidence) [CAR-OTP-2121-2371](#), [00:07:07] to [00:07:37] was played.

³⁶² P-1339: T-160, p. 44, line 15 to p. 45, line 4.

³⁶³ P-1339: T-160, p. 45, lines 5-14.

of any probative value due to his untruthfulness.

ii) P-1339's unreliable account as regard to his role [REDACTED]

115. P-1339's account as regard to his alleged role [REDACTED] within the RFACPP is riddled with contradictions. First, P-1339 initially claimed having been chosen [REDACTED] when the movement was in [REDACTED],³⁶⁴ before changing his narrative alleging that it was rather in [REDACTED].³⁶⁵ When confronted he said that he made a mistake if he said [REDACTED].³⁶⁶ Second, P-1339 changed multiple times his narrative as to whom nominated him [REDACTED], sometimes implicating Mr. Yekatom and sometimes mentioning it was just Ouandjio.³⁶⁷ Third, P-1339 gave multiple irreconcilable accounts as to what happened when he was selected [REDACTED]. Indeed, within a few minutes, P-1339 contradicted himself on this topic, stating first that Ouandjio immediately asked [REDACTED] to the witness after he performed a test,³⁶⁸ before saying that Ouandjio asked him to perform a test and that a day later Messrs Yekatom, Ouandjio and Beina were together to inform him that [REDACTED].³⁶⁹

116. Fourth, P-1339 repeatedly overstated his alleged position within the group by claiming that he was in charge of [REDACTED],³⁷⁰ despite the fact that he is a civilian with no military knowledge and that a number of FACA are members of the group.³⁷¹ Fifth, during his direct examination, P-1339 claimed [REDACTED] a list of elements.³⁷² However, when presented with the same document during Defence examination, P-1339 abruptly stated he was not [REDACTED].³⁷³ P-1339 further indicated that he was unfamiliar with the list and reiterated that he [REDACTED],³⁷⁴ in total contradiction to his direct examination.

(a) P-1339's contradictions as regard to the provision of lists of éléments

117. P-1339 provided several contradictory statements, under oath, as regard to the provision of lists of elements of the RFACPP to the OTP, to a point that the only reasonable conclusion to be drawn from the exchange is that P-1339 lied under oath. Initially, P-1339 claimed he informed OTP investigators that obtaining a copy of the lists was impossible,³⁷⁵ and that he had not attempted to

³⁶⁴ P-1339: T-151, p. 37, line 24 to p. 38, line 3.

³⁶⁵ P-1339: T-158, p. 20, lines 19-21.

³⁶⁶ P-1339: T-158, p. 21, line 22 to p. 22, line 1.

³⁶⁷ P-1339: T-158, p. 22, line 12 to p. 24, line 15.

³⁶⁸ P-1339: T-158, p. 20, lines 24-28.

³⁶⁹ P-1339: T-158, p. 22, lines 16-27.

³⁷⁰ P-1339: T-158, p. 36, lines 10-14, p. 37, lines 22-27.

³⁷¹ P-1339: T-158, p. 37, line 1 to p. 38, line 10.

³⁷² P-1339: T-151, p. 51, lines 3-12, referring to list [CAR-OTP-2039-0063](#).

³⁷³ P-1339: T-158, p. 38, line 26 to p. 40, line 24.

³⁷⁴ P-1339: T-158, p. 41, lines 7-41.

³⁷⁵ P-1339: T-158, p. 26, line 20, p. 27, line 4.

acquire one,³⁷⁶ stating the conversation ended there. However, when the Defence referenced the OTP investigation report on his interactions with investigators about obtaining the lists,³⁷⁷ P-1339 abruptly altered his account, asserting he had mentioned sending [REDACTED] to retrieve the lists, but [REDACTED] refused.³⁷⁸ This last answer was in contradiction with paragraph 60 of the witness' statement in which he said that [REDACTED] was actually the individual in possession of the list; when confronted with this paragraph P-1339 responded that '*Ce n'est pas moi qui ai fait cette déclaration*'.³⁷⁹

118. After denying having ever said what is written in his statement, the P-1339 also began to deny his response concerning the report's content. Indeed, when the Defence continued reading it regarding P-1339's attempt to obtain the list from [REDACTED],³⁸⁰ P-1339 denied having ever said that to the OTP,³⁸¹ and indicated to the Presiding Judge he had no idea who [REDACTED] is.³⁸²

119. The Defence recalls that P-1339's diverging accounts between what was mentioned in his statement, in the investigation note, or what he said during the hearing as to who had the list, various names being mentioned such as [REDACTED] or '[REDACTED]',³⁸³ or what was said by P-1339 to the OTP,³⁸⁴ was litigated.³⁸⁵ While the Chamber rejected the Defence's request, it nevertheless noted that those divergences were on the record.³⁸⁶

(b) P-1339's forged notebook

120. P-1339 provided a [REDACTED] to the OTP, which he claimed was contemporaneously written in 2013.³⁸⁷ This was patently false. During examination, the Defence confronted P-1339 with the fact that the images on the first page of his [REDACTED] depict football matches from April and May 2014,³⁸⁸ months after the alleged [REDACTED].³⁸⁹ This discrepancy indicates the [REDACTED] could not have been used contemporaneously, as claimed. Initially, P-1339

³⁷⁶ P-1339: T-158, p. 27, lines 5-11.

³⁷⁷ P-1339: T-158, p. 27, line 20 to p. 28, line 24 with reference to [CAR-OTP-2122-7725-R01](#).

³⁷⁸ P-1339: T-158, p. 28, line 25 to p. 29, line 22.

³⁷⁹ P-1339: T-158, p. 29 line 23 to p. 30, line 13.

³⁸⁰ P-1339: T-158, p. 30, lines 14-28.

³⁸¹ P-1339: T-158, p. 31, lines 1-4.

³⁸² P-1339: T-158, p. 32, lines 5-20: '[REDACTED], *c'est qui d'abord? Je le connais pas. [REDACTED]? Puisque c'est la première fois que j'entends ce nom, dites-le-moi*'.

³⁸³ P-1339: T-158, p. 29, line 23 to p. 30, line 10.

³⁸⁴ P-1339: T-158, p. 30, line 14 to p. 36, line 8.

³⁸⁵ ICC-01/14-01/18-1785-Conf, request to obtain contemporary notes from the OTP's interactions with P-1339.

³⁸⁶ ICC-01/14-01/18-1900-Conf, para. 9.

³⁸⁷ P-1339: T-154, p. 18, lines 20-24 with reference to [CAR-OTP-2041-0768](#).

³⁸⁸ [CAR-OTP-2041-0768](#).

³⁸⁹ P-1339: T-160, p. 9, line 11 to p. 10, line 19 with [CAR-D29-0002-0134](#) and [CAR-D29-0002-0135](#).

suggested the images were added by OTP investigators but soon contradicted himself,³⁹⁰ admitting they were present when he [REDACTED] in [REDACTED].³⁹¹

121. When questioned about the date he documented the 5th December Operation,³⁹² P-1339 initially stated he [REDACTED] it in late 2014 after leaving the group, stating: [REDACTED].³⁹³ Moments later, he contradicted himself, denying that he [REDACTED] upon returning to [REDACTED],³⁹⁴ and instead claimed he was still with the RFACPP at the time.³⁹⁵ He then suggested he documented the events on the day of the operation,³⁹⁶ only to further contradict this by stating he bought the [REDACTED] in [REDACTED] in 2014.³⁹⁷ The Defence also questioned him about his [REDACTED] on '[REDACTED].' When confronted that, if written contemporaneously as claimed in paragraph 83 of his statement, he could not have known it would be a '[REDACTED]',³⁹⁸ P-1339 shifted his story again, now stating he [REDACTED] first,³⁹⁹ then [REDACTED] it in [REDACTED] in 2014. This claim is further undermined by the use of [REDACTED] in the [REDACTED] of a football event photo that occurred later.

iii) P-1339's inconsistency as regard to Mr. Yekatom's orders

122. P-1339 gave contradictory accounts regarding orders allegedly given by Mr. Yekatom for the 5th December Operation. During direct examination, P-1339 claimed Mr. Yekatom ordered the killing of Seleka and Muslims, including women and children,⁴⁰⁰ and confirmed this when asked by the OTP.⁴⁰¹ The Defence noted this contradicted paragraph 56 of his statement, where P-1339 had indicated that Mr. Yekatom said nothing about Muslim women.⁴⁰² Shortly after, P-1339 revised his account, stating, '*Écoutez, si vous vous attaquez aux musulmans, ne touchez pas aux femmes et aux enfants. Ce sont les musulmans qui tirent, ce ne sont pas les femmes*'.⁴⁰³ Additionally, the Defence noted that P-1339 explained that in CAR, the term 'Muslims' often refers to Seleka,⁴⁰⁴ and that he himself used 'Muslims' to mean Seleka fighters in his testimony,⁴⁰⁵

³⁹⁰ P-1339: T-160, p. 13, line 20 to p. 14, line 2.

³⁹¹ P-1339: T-160, p. 20, lines 2-8.

³⁹² [CAR-OTP-2041-0768](#), p. 0769.

³⁹³ P-1339: T-160, p. 17-18, lines 14-10 with reference to [CAR-OTP-2041-0768](#), p. 0769.

³⁹⁴ P-1339: T-160, p. 18, lines 14-21.

³⁹⁵ P-1339: T-160, p. 19, lines 20-24.

³⁹⁶ P-1339: T-160, p. 19, lines 25-26.

³⁹⁷ P-1339: T-160, p. 20, lines 7-8.

³⁹⁸ P-1339: T-160, p. 21, lines 10-19.

³⁹⁹ P-1339: T-160, p. 22, lines 1-6.

⁴⁰⁰ P-1339: T-152, p. 71, lines 7-20.

⁴⁰¹ P-1339: T-152, p. 71, lines 13-18.

⁴⁰² P-1339: T-160, p. 6, lines 8-17.

⁴⁰³ P-1339: T-160, p. 8, line 27 to p. 9, line 4 (emphasis added).

⁴⁰⁴ P-1339: T-157, p. 45, lines 8-14.

⁴⁰⁵ P-1339: T-159, p. 27, lines 6-28.

underscoring a pattern of inconsistencies on critical points.

iv) P-1339's unreliable account in regard to the destruction of the Boeing Mosque

123. P-1339's testimony in regard to the destruction of the Boeing Mosque contains two irreconcilable accounts: one that would put the population solely responsible for the destruction of the Mosque, and another partially blaming the RFACPP. This is dealt with in further detail in Section IV.B.1.f.i).

v) P-1339's unreliable account on the 5th December Operation

124. P-1339's account of the 5th December Operation is rife with inconsistencies, particularly regarding events at Boeing market and the retreat following the conflict. Video evidence shows RFACPP members discussing the 5th December Operation while in the bush. The Defence contends that P-1339 did not personally participate in this operation but instead inserted himself into stories recounted by other group members, leading to numerous inconsistencies that undermine the reliability of his testimony.

(a) On the number and split of RFACPP members

125. P-1339 was unable to provide any credible explanation as to why during the hearing he states that there were 100 elements for the 5th December Operation with very few firearms,⁴⁰⁶ while in his statement he mentioned 1000 fighters, and specifically 611 that had weapons.⁴⁰⁷ When asked about the number who attacked the Boeing Market, P-1339 said that he believes there were 611; and that the night before at Proget there were 1500⁴⁰⁸ inexplicably changing '611' from the number of elements with weapons to the number of elements that attacked the Boeing Market.

126. During his examination by the Defence P-1339 indicated that the split of RFACPP members during the 5th December Operation occurred after events at the Boeing market, hence 1500 members took part,⁴⁰⁹ which directly contradicted paragraph 70 of his statement,⁴¹⁰ and which P-1339 was unable to explain.⁴¹¹ Beyond internal contradictions within P-1339's testimony, his account directly conflicts with that of the only other OTP witness alleged to have been part of the RFACPP during the 5th December Operation, P-2475, who reported fewer than 50 members

⁴⁰⁶ P-1339: T-152, p. 76, lines 1-2, p. 77, lines 3-8.

⁴⁰⁷ P-1339: T-152, p. 76, lines 10-20, p. 7, line 1 to p. 8, line 8.

⁴⁰⁸ P-1339: T-154, p. 74, lines 8-17.

⁴⁰⁹ P-1339: T-159, p. 77, lines 16-28.

⁴¹⁰ P-1339: T-160, p. 5, lines 2-11: indicating that they split in two groups, one group of 750 elements went to the Boeing market and 750 others to Dameca crossroad.

⁴¹¹ P-1339: T-160, p. 5, lines 12-23.

present and only one ‘*arme de guerre*’ held by Ouandjio.⁴¹² While the Defence contends in Section II.C.2.a) that P-2475’s account is entirely unreliable, it is notable that the only two OTP ‘insider’ witnesses provide irreconcilable accounts of the 5th December Operation, including significant discrepancies regarding the alleged number of RFACPP members involved.⁴¹³

(b) *On the Boeing Market incident*

127. As with his allegations underpinning Count 6, P-1339 offers profoundly inconsistent and conflicting accounts of the Boeing Market incident. Further contradictions are analysed in detail in Section IV.B.1.d.i).

(c) *On the retreat*

128. P-1339 initially testified that after 5th December Operation, all RFACPP members retreated to Proget,⁴¹⁴ but later revised this during Defence examination, stating some retreated to Proget while others went to Yamwara.⁴¹⁵ He also claimed they stayed at Yamwara after 5 December, never returning to the bush or [REDACTED].⁴¹⁶ When confronted with paragraph 81 of his corrected statement, which indicated a retreat to the bush between 5 and 16 December, P-1339 suggested he may have made an error in his statement.⁴¹⁷ When shown [REDACTED] regarding the Yamwara settlement,⁴¹⁸ he responded ambiguously, stating the [REDACTED] ‘must be true’ and that they did not retreat on 5 December.⁴¹⁹ This confusion was compounded when he confirmed paragraph 85 of his statement about the 20 December settlement at Yamwara,⁴²⁰ yet moments later claimed they were at Yamwara from 5 to 20 December.⁴²¹ The Defence submits P-1339’s fluctuated account as to where RFACPP members allegedly retreated deprives his testimony of any probative value, and cannot be relied upon to establish a clear narrative of the events.

vi) P-1339’s contradictions with regard to the procurement of weapons

⁴¹² P-2475: T-133, p. 4, line 16 to p. 5, line 3.

⁴¹³ See video footage of Boeing Market, [CAR-D29-0008-0017](#), from [00:00:59] to [00:02:31], filmed by the Defence in 2019. In it, P-1528 identifies the small market with a narrow road, noting the unchanged shops of [REDACTED] (at [00:01:51] on the right) and minimal changes since 2013 (P-1528: T-179, p. 30, line 27 to p. 35, line 18). The Defence submits that the video clearly shows the market’s limited size and narrow road, making it nearly impassable for cars and confirming the physical impossibility of P-1339’s claim that 750 to 1,500 elements could have been present.

⁴¹⁴ P-1339: T-154, p. 77, line 1: ‘*Après les combats, nous avons tous battu en retraite à Proget.*’

⁴¹⁵ P-1339: T-159, p. 80, lines 14-15, p. 81, lines 2-3.

⁴¹⁶ P-1339: T-159, p. 90, line 26 to p. 92, line 21.

⁴¹⁷ P-1339: T-159, p. 92, lines 13-21.

⁴¹⁸ [CAR-OTP-2041-0768](#), p. 0770.

⁴¹⁹ P-1339: T-159, p. 92, line 22 to p. 94, line 13.

⁴²⁰ P-1339: T-159, p. 94, lines 14-23.

⁴²¹ P-1339: T-159, p. 95, lines 10-23.

129. P-1339's testimony regarding [REDACTED] the group's procurement of weapons was fraught with contradictions that he was unable to reconcile. The inconsistencies and shifting narratives throughout his testimony strongly indicate that P-1339 fabricated this portion of his account to such an extent that the Chamber cannot rely on it to support any material findings.

(a) On the alleged visit to [REDACTED] to procure money

130. Regarding the alleged visit [REDACTED] to obtain money for weapons, P-1339 initially claimed that upon arrival, [REDACTED] Mr. Yekatom, who confirmed he had sent [REDACTED].⁴²² In a later version, P-1339 stated no call occurred [REDACTED], adding that he could not confirm if any call took place.⁴²³ When confronted with these conflicting accounts, P-1339 provided no explanation for the discrepancy.⁴²⁴

131. When asked about the timing of [REDACTED] visit to [REDACTED], P-1339 stated in direct examination that the RFACPP was in [REDACTED].⁴²⁵ During Defence examination, however, he said the group was in [REDACTED],⁴²⁶ later changing his account again to [REDACTED], admitting he had erred in mentioning [REDACTED].⁴²⁷ These contradictions reveal at minimum P-1339's willingness to provide false information under oath or, alternatively, that his fabricated account has led to confusion over essential details. Notably, [REDACTED] testimony contradicted P-1339's entirely, stating that (i) he did not know anyone named [REDACTED],⁴²⁸ (ii) he never gave [REDACTED],⁴²⁹ (iii) [REDACTED] never came to his house for money, and (iv) he had not returned to his home following [REDACTED].⁴³⁰

(b) On the alleged trip to Zongo to procure weapons

132. P-1339 testified that [REDACTED] travelled to Zongo [REDACTED], pre-emptively acknowledging this might differ from his statement.⁴³¹ When asked why paragraph 41 of his statement mentions only one visit, he vaguely replied that he had not provided all information in his statement.⁴³² The Defence questioned P-1339 on his claim during testimony that Mr. Yekatom was not [REDACTED], despite his statement in paragraph 43 that the weapons were stored in

⁴²² P-1339: T-152, p. 39, lines 4-14.

⁴²³ P-1339: T-158, p. 66, lines 15-25.

⁴²⁴ P-1339: T-158, p. 66, line 26 to p. 67, line 12.

⁴²⁵ P-1339: T-152, p. 58, lines 14-26.

⁴²⁶ P-1339: T-158, p. 67, line 27 to p. 68, line 4.

⁴²⁷ P-1339: T-158, p. 69, lines 9-18.

⁴²⁸ [REDACTED].

⁴²⁹ [REDACTED].

⁴³⁰ [REDACTED].

⁴³¹ P-1339: T-158, p. 51, lines 1-5.

⁴³² P-1339: T-158, p. 51, lines 6-21.

Mr. Yekatom's hotel room there.⁴³³ P-1339 confirmed Mr. Yekatom's absence, attributing any discrepancies to the investigator's responsibility.⁴³⁴

133. These conflicting accounts regarding [REDACTED] and Mr. Yekatom's presence demonstrate that P-1339 varied his narrative between his statement, OTP examination, and Defence examination such that the Chamber is precluded from assessing the truthfulness of any single account.

vii) P-1339's provision of false information on other individuals

134. In addition to the plethora of contradictions between his testimony and his statement, the Defence notes that P-1339 provided false information about other witnesses in this case. P-1339 claimed that the [REDACTED] woman in [REDACTED],⁴³⁵ joined them in [REDACTED] before the 5th December Operation.⁴³⁶ However, [REDACTED] unambiguously stated she joined the RFACPP after the 5th December Operation when the movement was at Yamwara,⁴³⁷ expressing surprise at the claim she was ever in [REDACTED].⁴³⁸ P-1339 also asserted that P-1647 attended a pre-operation meeting in the bush, later expressing doubt if P-1647 and [REDACTED] were the same person.⁴³⁹ In contrast, P-1647 confirmed he joined the RFACPP on [REDACTED] at Yamwara and was at home in [REDACTED] on 5 December.⁴⁴⁰ These inconsistencies underscore P-1339's unreliability regarding specific details of RFACPP operations, not any inaccuracy by P-1647 [REDACTED] regarding their joining dates.

viii) Unreliability of P-1339's evidence: Evading accountability

135. When confronted with significant contradictions in his account, P-1339 evaded responsibility, shifting blame onto others and providing evasive responses that lack probative value. In his testimony, as detailed above, P-1339 asserted that the OTP: (i) fabricated content in investigation report CAR-OTP-2122-7725-R01 regarding the lists of elements, (ii) added photos to his [REDACTED],⁴⁴¹ (iii) included erroneous information in his statement, and (iv) mis-transcribed his recorded testimony, despite the audio confirming accuracy. He further accused Registry staff

⁴³³ P-1339: T-159, p. 4, lines 12-28.

⁴³⁴ P-1339: T-159, p. 5, lines 1-12 indicating that he might have not explicated himself very well so they [i.e. OTP investigators] added additional information in his statement.

⁴³⁵ [REDACTED].

⁴³⁶ P-1339: T-158, p. 9, line 22 to p. 10, line 18.

⁴³⁷ [REDACTED].

⁴³⁸ [REDACTED].

⁴³⁹ P-1339: T-159, p. 39, lines 1-8.

⁴⁴⁰ P-1647: [CAR-OTP-2050-0654-R02](#), para. 26.

⁴⁴¹ P-1339: T-160, p. 13, line 20 to p. 14, line 2.

of providing false information regarding his statement corrections,⁴⁴² and challenged the authenticity of a UNHCR document presented by the Defence concerning [REDACTED].⁴⁴³ When considered in full, P-1339's explanations appear untruthful and fail to resolve the inconsistencies in his account.

c) [REDACTED] (P-1962)

136. P-1962's evidence was untruthful, as is clear from the multiplicity of contradictions and inconsistencies, both internal and external, therein. Two major fictitious threads run through his account, regarding: i) his whereabouts and activities during the violence that broke out in Boda in January 2014 ('Boda Events'), and ii) [REDACTED] the Boda Anti-Balaka Coordination that was established in the aftermath. Further fictions flow from this, notably regarding his trip from Bangui to Boda [REDACTED] during the Boda Events; and regarding Mr. Yekatom, Ouandjio and Soussou. These lies appear to stem from P-1962's motive to assign responsibility for his actions to others and thus avoid prosecution,⁴⁴⁴ noting that in reality, he was present during the Boda Events and [REDACTED].

i) On his claim to have [REDACTED]⁴⁴⁵

137. [REDACTED]⁴⁴⁶ denied that P-1962 was [REDACTED], stating instead that [REDACTED].⁴⁴⁷ This denial is significant: when P-1962 was pressed to cite at least one individual [REDACTED], he named [REDACTED], claiming that he and [REDACTED].⁴⁴⁸ [REDACTED]⁴⁴⁹ had travelled to Boda [REDACTED], but did not recognise P-1962's name or alias.⁴⁵⁰

ii) On his claim that the Group [REDACTED] Boda and planned the attack

138. [REDACTED] testified that the Boda Trip Group was ambushed by Muslim combatants upon reaching the 'entrance' of Boda,⁴⁵¹ during which fighting Ouandjio was killed.⁴⁵² [REDACTED] stated that the Group 'did not have time to meet the [chiefs] of Boda,' despite having intended to

⁴⁴² See Section II.C.2.b.i).

⁴⁴³ P-1339: T-154, p. 66, lines 14-26 regarding document [CAR-D29-0007-0035](#).

⁴⁴⁴ P-1962's testimony must be treated with caution at the outset given his status as an insider / 'accomplice' witness interviewed under article 55(2); and given he was rewarded with relocation for his cooperation with the OTP; see, P-1962: [CAR-OTP-2068-0037-R04](#), paras. 6-10 and ICC-01/14-01/18-906-Conf-Red, para. 50.

⁴⁴⁵ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 26-38.

⁴⁴⁶ The OTP has conceded that [REDACTED]; see [REDACTED] (where OTP Counsel corrects the transcript to ensure that [REDACTED]'s name, and therefore [REDACTED], is correctly recorded.).

⁴⁴⁷ [REDACTED].

⁴⁴⁸ [REDACTED].

⁴⁴⁹ The OTP has positively argued [REDACTED]'s participation in the Boda combat alongside Ouandjio; see, [REDACTED].

⁴⁵⁰ [REDACTED].

⁴⁵¹ [REDACTED].

⁴⁵² [REDACTED].

do so, due to the Group having been attacked ‘while walking through the neighbourhood the Seleka had burned’⁴⁵³ (which should be understood to refer to the ‘entrance’ of Boda).⁴⁵⁴ Both accounts are corroborated by D29-5012, who heard from RFACPP elements that Ouandjio had been killed ‘at the entrance of Boda’;⁴⁵⁵ and by then Mbaïki-based Muslim civilian P-2389, who stated that when the Boda Trip Group left Mbaïki for Boda, Mbaïki Muslims ‘called their relatives in Boda to warn them that the ‘anti-balaka’ were on their way’.⁴⁵⁶

139. P-1962’s claims regarding attack plans adopted during the purported [REDACTED] ‘meeting’,⁴⁵⁷ are also contradicted by CDRs of FACA Roddy Mbosse indicating that his mobile was repeatedly connecting to cell towers in Bangui during the period that per the ‘plan’, he was supposedly leading a group of fighters in combat in Boda.⁴⁵⁸

iii) On his claim that [REDACTED]

140. P-1962 claimed that on the eve of the [REDACTED]; and that the very idea to [REDACTED] originated with D29-3014.⁴⁵⁹ D29-3014 denied [REDACTED], citing the fact that he had both Muslim and non-Muslim relatives in Boda and could not accept intercommunity conflict, nor could he [REDACTED] encourage his son to kill his Muslim cousins.⁴⁶⁰ D29-3014’s account should be preferred over that of P-1962, not least given that the reasons underlying D29-3014’s denials are corroborated, including by evidence of his concrete efforts to promote peace and reconciliation in Boda;⁴⁶¹ and of a meeting he called to ‘sensitise’ the non-Muslim population to understand the ‘art’ of interreligious cohabitation,⁴⁶² notwithstanding the marked anti-Muslim

⁴⁵³ [REDACTED].

⁴⁵⁴ See, P-2193: [CAR-OTP-2127-6626](#), p. 6631 (Satellite imagery and expert analysis indicating a substantial cluster of burned homes, east/south-east of the Boda town centre, in the neighbourhood at the entrance of Boda on the Mbaïki-Boda road); and D29-5012: T-295, p. 23, lines 2-26 (where D29-5012 states that among the landmarks marking the ‘entrance’ of Boda on the Boda-Mbaïki road is the Samboli School); see also, P-1773: [CAR-OTP-2064-0084](#) (sketch of Boda indicating relative position of Samboli School at entrance to Boda on Boda-Mbaïki road ‘vers Bangui’); P-1962: [CAR-OTP-2068-0073](#), p. 0073 (annotated map of Boda where ‘School’ icon can be seen on the outskirts of the Boda on the Boda-Mbaïki road; note that when compared with the above-cited satellite imagery, the map demonstrates that the location of the Samboli School corresponds with the cluster of burned homes – i.e. simultaneously the location of the ambush and the ‘entrance’ of Boda).

⁴⁵⁵ D29-5012: T-295, p. 17, lines 10-19.

⁴⁵⁶ P-2389: [CAR-OTP-2104-0033-R03](#), para. 61.

⁴⁵⁷ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 39, 42.

⁴⁵⁸ See [CAR-D29-0004-3925](#), and Defence prior submissions at ICC-01/14-01/18-2562-Conf-AnxA, item #14 (regarding the manner in which these CDRs also contradict P-1962’s claims as regards i) [REDACTED], and ii) Mbosse’s whereabouts after the combat in Boda); *contra* P-1962: [CAR-OTP-2068-0037-R04](#), paras. 40, 43.

⁴⁵⁹ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 10-11.

⁴⁶⁰ [REDACTED], 118; T-265, p. 14, line 2 to p. 15, line 13; T-274, p. 17, line 5 to p. 19, line 9 (regarding D29-3014’s concrete efforts to promote peace and reconciliation, including by lobbying TCV-0952 to visit Boda following the violence); and see also, D29-3014: T-265, p. 11, line 4 to p. 12, line 16 (regarding D29-3014’s multi-faith family: his Muslim sister and in-laws, and their son Ali Bouba, D29-3014’s nephew and Soussou’s cousin, who was the deputy imam of the Boda Mosque).

⁴⁶¹ See D29-5015: T-254, p. 68, lines 9-12 (regarding D29-3014’s efforts to promote peace and reconciliation in Boda); and see, P-1962: T-140, p. 52, lines 7-14 (regarding D29-3014’s multi-faith family).

⁴⁶² [CAR-OTP-2115-0285](#), p. 0289. The OTP violated its disclosure obligations in failing to disclose this document in time for D29-3014’s testimony; see ICC-01/14-01/18-2647.

hostility prevalent in Boda's non-Muslim community at the time.⁴⁶³

141. Internal inconsistencies in P-1962's evidence also demonstrate that [REDACTED] is a fiction. When pressed as to why he – a civilian – would have been [REDACTED], P-1962 stated that [REDACTED] had initially called him to inform him about [REDACTED];⁴⁶⁴ yet his prior evidence was that he did not learn of [REDACTED] 'until [he] returned to Boda'.⁴⁶⁵ When asked for the phone number on which [REDACTED] had called him to inform him, he then reversed his claim, stating that [REDACTED] had not called him at all, but had instead visited him at his home, thereby contradicting not only his immediate prior testimony but also his prior statement.⁴⁶⁶

iv) On further evidence indicating that he was in Boda during the Events and not in Bangui

142. P-1962's claim to have been in Bangui and not in Boda when the violence broke out there⁴⁶⁷ is further belied by his own handwritten notes [REDACTED], which state: '72 hours after the Seleka left, around 29 January 2014, the Boda Muslims attacked us (emphasis added)'.⁴⁶⁸

143. P-1962 stated that he had 'personally witnessed' the burning-down of Boda Central Market;⁴⁶⁹ yet this incident took place prior to [REDACTED] arrival in Boda⁴⁷⁰ and cannot be reconciled with [REDACTED].⁴⁷¹

144. He gave inconsistent evidence regarding the whereabouts of his wife and children during the 5 December attack on Bangui: whereas he had previously claimed that he fled home from his bookstore to find that his wife and children had already left for a refugee site, during his testimony, he stated that his family were home when he arrived, and that he asked his wife to ready the

⁴⁶³ See e.g. [CAR-OTP-2042-3464 / CAR-D29-0006-0053](#); [CAR-OTP-2042-3463 / CAR-OTP-2107-1526](#); [CAR-OTP-2023-2049](#), [00:07:25] to [00:08:40] / [CAR-OTP-2127-6298](#), p. 6301, lines 73-84; [CAR-D29-0005-0392](#), p. 0393; D29-5012: T-294, p. 27, lines 18 to p. 29, lines 7.

⁴⁶⁴ P-1962: T-141, p. 12, lines 16-18.

⁴⁶⁵ P-1962: [REDACTED].

⁴⁶⁶ P-1962: T-141, p. 12, line 16 to p. 13, line 1; [CAR-OTP-2068-0037-R04](#), para. 11.

⁴⁶⁷ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 5-13.

⁴⁶⁸ P-1962: [CAR-OTP-2071-0093](#), p. 0146; [CAR-OTP-2071-0003-R02](#), para. 81.

⁴⁶⁹ P-1962: T-139, p. 23, lines 21-26; note that OTP is referencing report at [CAR-OTP-2001-6437](#), p. 6459 (see submitted duplicate [CAR-OTP-2001-2769](#), p. 2791) ('In the centre of [Boda], the market has been gutted and burned down').

⁴⁷⁰ Evidence indicates that the Boda Central Market was burned down on 3 February 2014; see, [CAR-OTP-2085-6755](#) / '07561' and metadata (photograph taken by P-1577 of the aftermath of the fire on 4 February 2014), and P-1577: [CAR-OTP-2081-0769-R01](#), p. 0811 (where he stated that the marketplace, adjacent to the main roundabout in Boda, was 'still smouldering' and that he 'was told that it had been destroyed the day before'), referring to [CAR-OTP-2085-6735](#) / '07559'. Regarding the fact that the 'main market place' is reference to the Central Market, see P-1962: [CAR-OTP-2068-0073](#) (P-1962's annotated map of Boda indicating '*Marché Central*' at the central intersection of Boda); and see also, P-1577: T-027, p. 79, line 20 to p. 80, line 24 (describing P-1577's approach to the market and the centre of town); see also, [CAR-OTP-2001-2564](#), p. 2581, [CAR-OTP-2127-6617](#), p. 6623, [CAR-OTP-2127-6626](#), p. 6631, Inset 2 (regarding satellite imagery showing the destruction of the Central Market).

⁴⁷¹ See above, regarding P-1962's claim to have arrived [REDACTED].

children and pack in preparation to flee.⁴⁷²

- v) On his claim that Soussou [REDACTED] was the Boda ‘anti-balaka’ Coordinator

145. According to the analysis of the Sangaris commander in Boda, whereas the ‘not very operational’ ‘official’ Boda ‘anti-balaka’ structure was headed by Soussou, the ‘more operational’ Boda ‘anti-balaka’ structure ‘that committed exactions in Boda’ was [REDACTED] – himself deemed ‘active and very operational’ [REDACTED].⁴⁷³

146. P-1962’s contemporary notes also reveal the true nature of [REDACTED] Soussou’s [REDACTED]. In a [REDACTED], P-1962 is [REDACTED]; and Soussou has no position in the *bureau*.⁴⁷⁴ A subsequent entry indicates that [REDACTED].⁴⁷⁵

147. CDRs also contradict P-1962’s claims that Soussou remained in Boda following [REDACTED], immediately became Coordinator, and was involved in the establishment of the Coordination there in early February 2014:⁴⁷⁶ specifically, they indicate repeated and consistent activations by Soussou’s phone of Bangui cell towers up until 21 April 2014;⁴⁷⁷ around which date Soussou briefly appears in P-1962’s [REDACTED] – however not as a Coordinator, but as a mere ComZone.⁴⁷⁸

148. Soussou’s June 2014 appointment in Bangui, by Mr. Ngaïssona, as Boda ‘Prefectoral Coordinator’ should be understood as a limited role distinct from the Boda ‘anti-balaka’ coordination, of which [REDACTED].⁴⁷⁹ It is notable that it is notwithstanding this formal appointment that the Boda Sangaris Commander had concluded that [REDACTED], and not Soussou, who was effectively leader of the Boda ‘anti-balaka’ Coordination.⁴⁸⁰

⁴⁷² P-1962: [CAR-OTP-2068-0037-R04](#), para. 6; cf. T-140, p. 49, lines 6-21, (notably prefaced by the statement, ‘I believe that the first thing to do under such circumstances’, further indicating the fictitious nature of this ‘recollection’) See also, prior inconsistency as to whether he first heard gunfire that morning *before* or *after* opening his bookstore in PK5, P-1962: T-140, p. 37, lines 23-25 and [CAR-OTP-2068-0037-R04](#), para. 5; and cf. T-140, p. 48, line 23 to p. 49, line 2.

⁴⁷³ [CAR-OTP-2053-0546](#), pp. 0546-0548; see also, prior submissions made on this item in ICC-01/14-01/18-1947-Conf-Anx, item #32.

⁴⁷⁴ P-1962: [CAR-OTP-2071-0023](#), pp. 0033-0035; p. 0036 (where P-1962 is quoted as [REDACTED]; see below regarding the subordinate status of ComZones); and P-1962: [CAR-OTP-2071-0003-R02](#), para. 26 ([REDACTED]); cf. [CAR-OTP-2071-0003](#), paras. 26-31.

⁴⁷⁵ P-1962: [CAR-OTP-2071-0023](#), p. 0048. [REDACTED].

⁴⁷⁶ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 48; 80 90; [CAR-OTP-2071-0003-R02](#), paras. 28, 34; T-139, p. 53, lines 17 to 21.

⁴⁷⁷ [CAR-D29-0004-3926](#); see submissions made on this item in ICC-01/14-01/18-2562-Conf-AnxA, item #15.

⁴⁷⁸ P-1962: [CAR-OTP-2071-0023](#), pp. 0036, 0038, 0039. Regarding the separate and subordinate role of ComZones in Boda, see e.g. [CAR-OTP-2068-0037-R04](#), paras. 81, 93; T-139, p. 49, line 1 to p. 50, line 22 (where P-1962 refers to ComZones as ‘lower-ranking’ (*subalternes*)), refers to ‘little ComZones’, and refers to giving orders to ComZones).

⁴⁷⁹ P-1962: [CAR-OTP-2068-0077](#); [CAR-OTP-2001-5386](#), pp. 5466-5468; P-1521: T-084, p. 65, lines 6-19.

⁴⁸⁰ P-1962: [CAR-OTP-2068-0077](#), pp. 0077-0078 (where the signature of Boda Sangaris Commander Mathieu aka ‘Guillaume’ dated 3 July 2014 can be seen, thus indicating that his conclusion that [REDACTED] of the operational

- vi) On P-1962's motive to assign responsibility for his actions during the Boda Events, [REDACTED], to others

149. At the start of P-1962's Article 55(2) interview, he was informed that the OTP knew that he was associated with 'an armed group that committed crimes' within the Court's jurisdiction; that the OTP policy was to prosecute those 'most responsible' for said crimes; and that 'based on the information the OTP possess[e]d', P-1962 was not among those likely to be prosecuted.⁴⁸¹

150. P-1962 thus took his interview as an opportunity to assign responsibility for his part in the Boda Events to others, to ensure that he remained sufficiently subordinate in the eyes of the OTP, and to demonstrate 'value' as a witness, so as to avoid prosecution for his true role and acts during the notorious Boda Events. This motive underpins his claim to have been in Bangui when violence broke out in Boda; from which further fabrications flow regarding [REDACTED] and personal interactions with *inter alia* Ouandjio. P-1962 thus fabricated prejudicial allegations not only about Soussou and Ouandjio⁴⁸² but also Mr. Yekatom, in relation to whom P-1962 embellished his account with false claims of personal acquaintance.⁴⁸³ His in-court recantations and reversals on grave allegations such as Soussou's intention to kill abducted Muslim women and children,⁴⁸⁴ or Mr. Yekatom's exhortation 'to 'continue to kill the Muslims'⁴⁸⁵ only further demonstrate the lack of reliability in this regard.

d) Jean-Jacques Demafouth Mafoutapa (P-2328)

151. P-2328 is wholly unreliable as evidenced by his propensity to lead serious allegations against Mr. Yekatom which are at best, speculative and at worst, intentionally unfounded. As set out below, P-2328's prejudicial account appears to stem from personal animosity towards Mr. Yekatom and a deliberate attempt to deceive the Chamber in order to exaggerate his own importance.

- i) P-2328 provided multiple baseless, untested and inconsistent claims

Coordination was made in full awareness of the 'official' appointment of H. Soussou); see above; and see, [CAR-OTP-2068-0037-R04](#), para. 109 (regarding Mathieu being known as 'Guillaume').

⁴⁸¹ P-1962: [CAR-OTP-2068-0037-R04](#), paras. 6-9.

⁴⁸² P-1962: [CAR-OTP-2068-0037-R04](#), para. 34 (claiming that Ouandjio was a chief from Bossangoa who terrorised the villages from Bossangoa to Bangui'); *contra* (P-2232: T-075, p. 38, lines 24 to p. 40, line 1; P-1786: T-197, p. 62, lines 13-23; P-0888: T-120, p. 29, lines 1-3 (regarding the fact that Ouandjio had fled to Zongo before crossing back over to CAR); his claim is also notably contrary to the Prosecution's own case theory; see, ICC-01/14-01/18-723-Conf, paras. 86, 88.

⁴⁸³ P-1962: [CAR-OTP-2068-0037-R04](#), para. 30 (where P-1962 claimed that he had [REDACTED] with Mr. Yekatom and [REDACTED], that the three had [REDACTED]); cf. D29-3014: [CAR-D29-0009-0355](#), paras. 21-22, 27 (where he confirms that neither [REDACTED]); P-1528: [CAR-OTP-2048-0757-R05](#), para. 51; P-0884: T-055, p. 82, lines 9-10; P-0888: T-122, p. 46, lines 4-7.

⁴⁸⁴ P-1962: [CAR-OTP-2068-0037-R04](#), para. 61; cf. T-139, p. 10, lines 16-17; cf. p. 10, line 19 to p. 11, line 2; cf. T-140, p. 62, line 27 to p. 65, line 6.

⁴⁸⁵ P-1962: [CAR-OTP-2068-0037-R04](#), para. 123; cf. T-141, p. 9, lines 11-14 and p. 20, lines 22-24.

152. In an attempt to demonstrate Mr. Yekatom's alleged criminality, P-2328 claimed that during TCV-0952's visit to Mbaiki on 12 February 2014— which P-2328 attended— 'anti-balaka' reportedly part of RFACPP and 'under Mr. Yekatom's orders' brutally murdered one of the last Muslim civilians in Mbaiki.⁴⁸⁶
153. The witness clearly distinguished this event from that of Saleh,⁴⁸⁷ asserting that the alleged killing by 'Mr. Yekatom's men' discredited the mission as it was about to depart,⁴⁸⁸ linking it explicitly to that day. When confronted, he reacted with hostility, accusing counsel of distortion, instructing counsel to 'use proper methods' and emphasising he had not named the victim,⁴⁸⁹ aware that this omission would restrict Mr. Yekatom's ability to respond. P-2328 evidently came to these proceedings with an agenda and sought to obfuscate when challenged.⁴⁹⁰ Despite the difficulty of rebutting an unnamed accusation, P-2328's claim is demonstrably false, refuted by multiple witnesses, including TCV-0952,⁴⁹¹ who noted that such an incident would have left a lasting impact, particularly under heightened security for the president's visit.⁴⁹²
154. P-2328 also asserted that Mr. Yekatom controlled localities such as Boda and Boganangone as well as various secondary roads within those localities.⁴⁹³ These claims are baseless. P-2328 failed to explain how he acquired that information or provide any indication that he had personally visited these localities during the charged events.⁴⁹⁴ He testified that members of the RFACPP allegedly surrounded the enclave in Boda and attacked Muslims who would venture out.⁴⁹⁵ This claim is contradicted by various witnesses and documentary evidence that demonstrate Mr. Yekatom's lack of control in these areas and the presence of other 'anti-balaka' groups operating there.⁴⁹⁶ Clearly, P-2328 extended Mr. Yekatom's criminal responsibility to every locality in the Lobaye without verifying the veracity of the information in order to incriminate him. The fact that

⁴⁸⁶ P-2328: T-047, p. 77, line 21 to p. 79, line 3; T-050, p. 47, lines 6-16.

⁴⁸⁷ P-2328: T-050, p. 47, line 6 to p. 48, line 8.

⁴⁸⁸ P-2328: T-047, p. 78, line 21 to p. 79, line 3.

⁴⁸⁹ P-2328: T-050, p. 47, line 20 to p. 48, line 8.

⁴⁹⁰ P-2328: T-050, p. 47, lines 20-28.

⁴⁹¹ D29-5015: T-254, p. 72, lines 5-10; D29-5012: T-294, p. 58, lines 3-21; TCV-0952: T-252, p. 60, lines 1-18; D29-5013: T-285, p. 63, lines 26-28; P-1813: T-182, p. 51, line 15 to p. 52, line 4; P-1838: T-216, p. 18, lines 6-16.

⁴⁹² D29-5015: T-254, p. 72, lines 5-10; T-255, p. 6, lines 14-27.

⁴⁹³ P-2328: T-047, p. 70, lines 9-14.

⁴⁹⁴ The Defence notes that P-2328 visited Boda for the first time in August 2014, see P-2328: T-050, p. 18, lines 5-16.

⁴⁹⁵ P-2328: T-047, p. 17, line 2 to p. 18, line 15.

⁴⁹⁶ Regarding Boda, see P-2084: [CAR-OTP-2094-0968-R02](#), para. 95; P-1813: T-180, p. 30, line 22 to p. 31, line 2; T-182, p. 41, line 10 to p. 43, line 17; P-1647: T-196, p. 13, lines 1-3; [CAR-D29-0005-0162](#), p. 0167; [CAR-D29-0005-0392](#), p. 0396; P-1773: [CAR-OTP-2064-0063-R03](#), paras. 33 et seq, 80-93; P-0889: [CAR-OTP-2122-7992-R02](#), p. 7994, lines 40-45; [CAR-OTP-2122-8112-R02](#), p. 8129, lines 601-608; [CAR-OTP-2076-0815](#), [00:01:25] to [00:02:48] / [CAR-D29-0006-0721](#), p. 0721, line 22 to p. 0722, line 19; [CAR-OTP-2001-5386](#), p. 5566.

Regarding Boganangone, see P-1813: T-182, p. 41, line 10 to p. 43, line 17; D29-5012: T-294, p. 74, lines 4-23, p. 78, line 20 to p. 79, line 3; D29-5015: T-254, pp. 73-77; [CAR-D29-0005-0392](#), p. 0396; [CAR-OTP-2023-1636](#), [00:08:09] to [00:08:50] / [CAR-D29-0006-0107](#), p. 0110, lines 15-21.

the witness sought to lead serious allegations without verification or qualification draws reasonable inference of his propensity to make lies up or, at the very least, makes it impossible to ascertain the veracity of his claims.

155. P-2328 also alleged that the RFACPP was responsible for the 5th December Operation, a conclusion he seemingly drew himself based on his understanding that he controlled the Boeing/PK9 zone.⁴⁹⁷ After being pressed twice on his basis of knowledge without providing any comprehensible answer, he responded that he knew Mr. Yekatom controlled that area based on two conversations.⁴⁹⁸ P-2328 not only failed to specify when these conversations took place— if they indeed did— but also provided no substantive information to support his claim that Mr. Yekatom was responsible for the 5 December events.

156. Whilst P-2328 presents himself as a high-level figure, he consistently provided false information regarding the crisis in CAR—details he either knew or intentionally misrepresented in court. For instance, he described the ‘anti-balaka’ structure as ‘nébuleuse’ claiming an unclear command structure due to numerous groups and leaders,⁴⁹⁹ while simultaneously asserting that it was militarily organised, received directives from Bangui, and that the RFACPP fell under Mr. Ngaïssona’s coordination.⁵⁰⁰ These irreconcilable assertions conflict with evidence which reflects a far more nuanced reality whereby the ‘anti-balaka’ were not a unified and homogeneous entity; divisions were clear, and not all groups recognised Mr. Ngaïssona as the national coordinator.

157. Similarly, P-2328 claimed that the RFACPP was structured, with offices for intelligence, operations, materials, and security, and that Mr. Yekatom organized ‘many’ things.⁵⁰¹ He provided no basis for this claim, despite his purported influence in CAR, merely assuming that, as a leader, Mr. Yekatom must have required organization and could not have acted alone.⁵⁰² Minutes later, however, P-2328 contradicted himself, asserting that the ‘anti-balaka’ movement, including the RFACPP, was unstructured, lacked logistics, and relied on the population for survival.⁵⁰³ These contradictions reveal P-2328’s tendency to manipulate his responses, inventing unfounded and prejudicial claims against Mr. Yekatom as suited his narrative.

ii) P-2328 lied when confronted with accusations made against him

158. P-2328’s track record reveals him to be a consistent agitator and volatile person who yearns for

⁴⁹⁷ P-2328: T-047, p. 66, lines 21-23.

⁴⁹⁸ P-2328: T-047, p. 66, line 24 to p. 67, line 24.

⁴⁹⁹ P-2328: T-047, p. 22, lines 16-17, p. 23, lines 4-6, p. 56, line 21; T-048, p. 42, lines 1-5; T-049, p. 49, line 25.

⁵⁰⁰ P-2328: T-047, p. 74, line 28 to p. 75, line 9; T-049, p. 23, lines 17-25.

⁵⁰¹ P-2328: T-047, p. 71, lines 12-22, p. 74, lines 8-24.

⁵⁰² P-2328: T-047, p. 74, lines 8-24.

⁵⁰³ P-2328: T-047, p. 76, line 22 to p. 77, line 14.

power, casting significant doubt on his overall credibility. He has been linked to multiple coup attempts, all of which he denied during testimony: in 1981 against Kolingba's government;⁵⁰⁴ in May 2001 against Patassé—his former coup ally⁵⁰⁵—for which he was arrested, charged with undermining state security,⁵⁰⁶ and subsequently exiled to France until 2008;⁵⁰⁷ and in 2014 against TCV-0952.⁵⁰⁸ In 2012, he was also arrested by Bozizé on suspicion of plotting a coup.⁵⁰⁹ P-2328's history of involvement in unrest portrays him as a self-serving, opportunistic individual, willing to betray allies in his pursuit of power.

159. Although repeatedly boasting that the APRD was fully demobilised by 2012,⁵¹⁰ P-2328 was implicated in fraudulent allegations related to the DDR program under his supervision. It was reported that the number of APRD members was inflated, that only two percent of members actually presented weapons and that Steering Committee representatives of the politico-military groups like P-2328 received high monthly indemnities funded by UNDP such that the funds were spent before the end of the preparatory phase.⁵¹¹ When confronted with the evidence which evoked the accusations,⁵¹² P-2328 became aggressive⁵¹³ causing the Presiding Judge to intervene,⁵¹⁴ laughed at counsel,⁵¹⁵ contested the validity of the report,⁵¹⁶ and denied all accusations.⁵¹⁷ A UN report further noted that 'demobilised' APRD commanders reinvented themselves by joining another rebel group, RJ⁵¹⁸ which supported the Seleka,⁵¹⁹ therefore defeating the whole purpose behind the DDR and revealing the fraudulent intent. P-2328 denied it.⁵²⁰ These examples not only reveal P-2328's willingness to lie under oath but also demonstrate

⁵⁰⁴ P-2328: T-050, pp. 27-28; [CAR-D30-0007-0161](#), p. 0162. See also P-0291: T-052, p. 25, lines 13-24.

⁵⁰⁵ P-2328: T-046, p. 9, lines 6-10; T-050, pp. 27-28; [CAR-D30-0007-0161](#), p. 0166; [CAR-D29-0002-0049](#), p. 0050; [CAR-D29-0002-0047](#), p. 0048.

⁵⁰⁶ P-2328: T-046, p. 19, lines 2-10; T-049, p. 94, lines 2-8, 20-23; [CAR-D29-0002-0046](#), p. 0047; [CAR-D30-0007-0161](#), p. 0167. P-2328 was acquitted due to insufficient evidence. In its decision, the Constitutional Court of Bangui mentioned a telephone conversation recording in which P-2328 would have referenced another coup which did not fall under the jurisdiction of the Court ([CAR-D30-0007-0187](#), pp. 0187, 0199). P-2328 firmly maintained his innocence and claimed that the audio recording was fabricated (T-049, pp. 81-82, p. 94, lines 2-8, 20-23).

P-2328 was also arrested and charged with undermining state security in 2012 by Bozizé for which he was released after four months of investigations (T-046, p. 13, lines 5-10; p. 31, lines 12-16).

⁵⁰⁷ P-2328: T-046, p. 8, lines 1-2; T-050, p. 3, lines 10-13. See also [CAR-D29-0002-0046](#), p. 0047.

⁵⁰⁸ [CAR-D29-0002-0023](#); P-2328: T-049, pp. 31-32, 47-50.

⁵⁰⁹ P-2328: T-046, p. 13, lines 5-21, p. 31, lines 11-31.

⁵¹⁰ P-2328: T-048, p. 90, line 22. See also T-046, p. 13, line 5, p. 41, lines 9-12, p. 42, lines 2-3; T-050, p. 12, line 21.

⁵¹¹ [CAR-D30-0007-0205](#), pp. 0619, 0621, 0623. See also [CAR-OTP-2023-0032](#), p. 0368; [CAR-D30-0007-0008](#).

⁵¹² P-2328: T-048, pp. 81-90; T-050, p. 36, line 8 to p. 38, line 10; [CAR-D30-0007-0008](#); [CAR-D30-0007-0205](#), pp. 0619-0623; [CAR-OTP-2023-0032](#), p. 0368.

⁵¹³ P-2328: T-048, p. 83, lines 4-19, p. 84, lines 13-28.

⁵¹⁴ P-2328: T-048, p. 83, line 17 to p. 84, line 1.

⁵¹⁵ P-2328: T-048, p. 87, line 19.

⁵¹⁶ P-2328: T-048, p. 84, lines 13-14.

⁵¹⁷ P-2328: T-048, p. 85, lines 22-23, p. 86, lines 8-11; T-050, p. 36, line 8 to p. 38, line 10.

⁵¹⁸ [CAR-OTP-2023-0032](#), pp. 0061, 0368.

⁵¹⁹ P-2328: T-049, p. 66, lines 4-6.

⁵²⁰ P-2328: T-046, p. 42, lines 9-11; T-048, p. 96, lines 1-21; T-049, p. 62, line 26 to p. 63, line 6, p. 64, lines 8-22.

his disregard for the judicial process.

160. This pattern repeats across multiple instances, following the same formula—P-2328 is implicated in criminal prosecutions, and when confronted with formal documents, he persists in his denial, doubling down on falsehoods regarding: (i) links to the Fatima Church attacks of May 2014,⁵²¹ and (ii) links to the release of Larmassoum.⁵²²

161. P-2328's extensive involvement in fraudulent and criminal activities is marked by his categorical denial of every allegation, revealing a lack of integrity and disregard for these proceedings. Despite frequently boasting of his intelligence role and informant network,⁵²³ he feigned ignorance and dismissed all accusations when confronted.

162. P-2328's inability to take accountability and his attempts to distort the truth have recognised amongst his countrymen. P-2328 has been widely described by media outlets as a fraud, manipulator and pathological liar.⁵²⁴ In fact, he was so strongly disliked that the CAR population contested his nomination as coordinator of the technical committee in charge of organising the Bangui Forum in 2015 following which he was asked to step down a few days after his nomination.⁵²⁵ When questioned on this, P-2328 disagreed— he claimed that he faced opposition only from armed groups who, fearing that P-2328 would undermine their security, convinced the population that he should not participate. He maintained that he remained in charge of the material organisation and the security at the Forum.⁵²⁶ Once again, P-2328 distorted the facts to place himself at the centre of attention.

163. P-2328 was highly unpopular in political circles.⁵²⁷ P-0291 and P-0801, who worked closely

⁵²¹ In 2014, P-2328 was summoned by the Prosecutor of CAR to be questioned in relation to the Fatima Church attacks of May 2014 ([CAR-OTP-2101-3413](#); [CAR-D29-0002-0049](#); P-0801: T-037, p. 22, lines 8-19, p. 32, lines 15-22). When shown the official court records ([CAR-OTP-2101-3413](#)), P-2328 denied ever being summoned and claimed it was the first time he had heard such an accusation (P-2328: T-050, p. 13, line 22 to p. 15, line 1).

⁵²² P-2328 was accused of facilitating the liberation of Larmassoum, an APRD leader who had been arrested and sentenced to life imprisonment in 2005 ([CAR-D29-0001-0125](#), p. 0125; [CAR-OTP-2001-6251](#), pp. 6294-6295). While P-2328 acknowledged the existence of a criminal procedure, he claimed that the courts found no connection between him and the matter, insisting that he had always appeared before the courts and addressed any allegations against him (P-2328: T-049, p. 33, lines 11-24, p. 34, lines 4-17, p. 38, line 22 to p. 39, line 2, p. 51, lines 14-19). However, official court records prove P-2328's lies; a summons dated 30 January 2015 cited him as an accomplice ([CAR-D29-0001-0115](#), p. 0119), a radio summons dated 23 February 2015 requested his court appearance ([CAR-D29-0001-0122](#)), and a certificate of deficiency dated 20 March 2015 indicated that he failed to respond to both documents ([CAR-D29-0001-0115](#), p. 0120). When confronted with these official court records, P-2328 denied ever being visited by an investigating judge, contested the authenticity of the radio summons, and averred that he was never made aware of such documents (P-2328: T-050, p. 39, line 11 to p. 46, line 17). P-0287 and TCV-0952 also testified that Larmassoum was released by P-2328, further highlighting the dishonesty of his testimony (P-0287: [CAR-OTP-2115-0239-R01](#), para. 81; TCV-0952: T-251, p. 107, lines 19-25).

⁵²³ P-2328: T-047, p. 4, line 26, p. 57, line 27, p. 67, line 14, p. 74, lines 9-10.

⁵²⁴ [CAR-D29-0002-0023](#); [CAR-D29-0002-0042](#); [CAR-D29-0002-0046](#). See P-2926: T-031, p. 70, lines 17-18.

⁵²⁵ [CAR-D29-0002-0013](#); [CAR-D29-0002-0046](#); [CAR-D30-0007-0161](#), pp. 0171-0172; P-0801: T-037, p. 24, line 12 to p. 25, line 28; P-0291: T-052, p. 24, line 5 to p. 24, line 24.

⁵²⁶ P-2328: T-050, p. 22, line 23 to p. 25, line 18.

⁵²⁷ P-0291: T-052, p. 24, lines 22-24, p. 27, lines 8-13.

with him, described him as a divisive and manipulative figure who thrived on discord and was widely disliked.⁵²⁸ P-0801 recounted a meeting where he asked TCV-0952 to have P-2328 leave due to his manipulative tendencies, a request TCV-0952 granted.⁵²⁹ Additionally, P-1839 testified that she [REDACTED] due to threats from P-2328.⁵³⁰

iii) P-2328 purposely provided false testimony

164. It follows from the above that P-2328 is motivated by power, willing to manipulate any situation in order to place himself in a position of authority. These proceedings were another attempt to place himself at the centre of attention by wilfully fabricating baseless, exaggerated, and entirely unsubstantiated claims, all aimed at incriminating Mr. Yekatom to the greatest extent possible.

165. P-2328 had a pool of information to dig into. With all the unreliable and false rumours and misinformation circulating at the time, notably in *bulletins de renseignements*,⁵³¹ as well as the unreliable information circulating about Mr. Yekatom's behaviour at the government level,⁵³² P-2328 was able to construct a distorted narrative of the events. P-2328, being a lawyer,⁵³³ was familiar with litigation tactics.⁵³⁴ He knew exactly how to construct false claims and make them as incriminating as possible.

166. Given P-2328's claims of access to informants and intelligence officers,⁵³⁵ and his self-characterisation as a political leader,⁵³⁶ one would expect him to provide concrete details, a clear timeline, and an explanation of his information sources if his assertions were genuine. Lacking these specifics, his testimony consists only of vague, unsupported claims that fail to form a coherent or credible narrative. P-2328's entire testimony is inherently unreliable, offering no credible basis for conclusions or factual findings. Accordingly, his evidence should be dismissed in its entirety.

III. FACTUAL BACKGROUND AND CONTEXT

A. Introduction

167. The scale and brutality of the ensuing Seleka atrocities – following their takeover of Bangui on 24 March 2013⁵³⁷ – underpin the CAR crisis and further deepened divisions within the local

⁵²⁸ P-0801: T-037, p. 25, lines 18-24; P-0291: T-052, p. 24, lines 22-24, p. 27, lines 8-13.

⁵²⁹ P-0801: T-037, p. 20, lines 1-17.

⁵³⁰ P-1839: T-173, p. 57, line 22 to p. 58, line 12.

⁵³¹ [CAR-OTP-0080-0821](#); [CAR-OTP-0080-0814](#).

⁵³² P-0801: T-035, p. 79, line 8 to p. 81, line 18. See also [CAR-OTP-2099-0255](#); [CAR-OTP-2099-0251](#).

⁵³³ P-2328: T-046, p. 7, lines 2-20.

⁵³⁴ P-2328: T-050, p. 47, lines 25-27.

⁵³⁵ P-2328: T-047, p. 4, line 26, p. 57, line 27, p. 67, line 14, p. 74, lines 9-10.

⁵³⁶ P-2328: T-049, p. 70, line 16.

⁵³⁷ P-0992: [CAR-OTP-2110-0048-R05](#), para. 25; [CAR-D29-0012-0001](#), p. 0006.

population. In response, various local resistance groups formed, some of which were loosely coordinated, with differing levels of coordination. While the OTP asserts that these groups were unified, structured, and ideologically homogeneous, the evidence reveals that this characterisation was far from accurate.

B. Formation of specific resistance groups

1. COCORA and COAC

168. COCORA and COAC were two vigilante youth movements created and led by Bozizé supporters Yakété⁵³⁸ and Yambeté,⁵³⁹ respectively, in Bangui in December 2012 with the aim of defending the Bozizé regime against the Seleka's advance on Bangui.⁵⁴⁰

2. Siriri

169. After the Seleka takeover of Bangui, a group called 'Siriri' was formed and led by Konaté in Bangassou following the instructions of Bozizé.⁵⁴¹ Their aim was to reach Bangui to fight against the Seleka.⁵⁴² Members of Siriri included FACA members (e.g. Lt. Abel Denamganai).⁵⁴³ Yakété was the coordinator/spokesperson of Siriri.⁵⁴⁴ Mokom was in contact with Konaté and other members of Siriri.⁵⁴⁵

3. Cameroon Group

170. After the Seleka takeover in March 2013, Bozizé fled to Cameroon and met with his entourage.⁵⁴⁶ Bozizé was trying to organise his return to power with several individuals who were present in Cameroon and who were either politicians or soldiers, some of whom were part of Bozizé's inner circle.⁵⁴⁷ Mokom, who was in Zongo at the time, was coordinating with the

⁵³⁸ P-0446: T-096, p. 42, lines 3-5; P-0876: T-085, p. 15, line 25 to p. 16, line 2; P-2232: T-075, p. 11, line 23 to p. 12, line 4, p. 14, line 13 to p. 15, line 12; P-2625: T-188, p. 39, lines 11-14; T-192, p. 3, lines 26-27; D30-4720: T-280, p. 15, lines 9-15; P-0889: [CAR-OTP-2122-7517-R02](#), p. 7543, lines 1027-1046; P-0884: T-054, p. 31, lines 10-26; P-0808: [CAR-OTP-2025-0324-R05](#), para. 152; [CAR-OTP-2001-2769](#), p. 2830.

⁵³⁹ P-2625: T-192, p. 3, lines 26-27; T-188, p. 39, lines 19-26; P-2232: T-075, p. 14, line 12 to p. 15, line 12; T-078, p. 13, lines 10-11; D30-4720: T-280, p. 15, lines 9-15; P-0876: T-085, p. 15, line 25 to p. 16 3-16; P-0808: [CAR-OTP-2025-0324-R05](#), para. 153; [CAR-OTP-2001-2769](#), p. 2830.

⁵⁴⁰ [CAR-OTP-2001-2769](#), p. 2830; P-0992: [CAR-OTP-2128-0288-R02](#), para. 190; P-0884: T-054, p. 31, line 10 to p. 32, line 20, p. 33, lines 22-26.

⁵⁴¹ P-0446: T-096, p. 42, lines 6-13; [CAR-OTP-2059-1567-R01](#), p. 1578, lines 397-409; [CAR-OTP-2059-1626-R01](#), p. 1645, lines 709-728; P-0808: [CAR-OTP-2025-0324-R05](#), para. 50.

⁵⁴² P-0446: [CAR-OTP-2059-1567-R01](#), p. 1578, lines 397-409; T-096, p. 42, lines 2-13; P-0808: [CAR-OTP-2025-0324-R05](#), para. 50.

⁵⁴³ P-0808: [CAR-OTP-2025-0324-R05](#), para. 50; [CAR-OTP-2093-0010-R02](#), paras. 56-57.

⁵⁴⁴ P-0876: [CAR-OTP-2046-0380-R01](#), p. 0387, lines 231-243; T-085, p. 9, line 3.

⁵⁴⁵ P-0446: [CAR-OTP-2059-1626-R01](#), p. 1645, lines 709-728.

⁵⁴⁶ P-0992: [CAR-OTP-2110-0048-R05](#), paras. 32, 46.

⁵⁴⁷ P-0992: [CAR-OTP-2110-0048-R05](#), paras. 32, 46; T-092, p. 20, line 23 to p. 21, line 14; P-0884: T-054, p. 62, lines 13-20; T-055, p. 8, lines 24-28, p. 48, line 26 to p. 49, line 5; P-0889: [CAR-OTP-2034-0463-R02](#), para. 86; [CAR-OTP-2122-8079-](#)

Cameroon Group.⁵⁴⁸

4. FROCCA

171. FROCCA was set up in Paris in August 2013 by Bozizé's lawyer Banoukepa following the former's instructions.⁵⁴⁹ The goal of FROCCA was to mobilize the international community and bring Bozizé back to power.⁵⁵⁰ Its members included the youth militia and FACA officers. Banoukepa was FROCCA's leader and coordinator.⁵⁵¹

5. Gobere Group

172. The Gobere Group was formed by FACA soldiers who fled to Gobere (in North Ouham region between Bossangoa and Bouca) during the Seleka takeover to resist to Seleka exactions.⁵⁵² Mokom was in contact with the Gobere Group and other self-defence groups in the provinces prior to 5 December.⁵⁵³ Individuals associated with the Gobere Group included, *inter alia*,⁵⁵⁴ Dedane,⁵⁵⁵ P-2269,⁵⁵⁶ Denamganai,⁵⁵⁷ Bejouane,⁵⁵⁸ Houronti,⁵⁵⁹ P-2602,⁵⁶⁰ Bama,⁵⁶¹ P-0306,⁵⁶² Lebene,⁵⁶³ Mazimbelet,⁵⁶⁴ Yadjoungou,⁵⁶⁵ Mokpem,⁵⁶⁶ Kema,⁵⁶⁷ Konaté,⁵⁶⁸ Danfei,⁵⁶⁹ P-

[R02](#), p. 8088, line 300 to p. 8089, line 323; P-2027: [CAR-OTP-2078-0059-R03](#), paras. 164-165; P-2232: T-075, p. 55, line 2 to p. 56, line 10; T-076, p. 8, line 15 to p. 9, line 11, p. 17, line 15 to p. 19, line 4.

⁵⁴⁸ P-2232: T-078, p. 29, line 5 to p. 30, line 7.

⁵⁴⁹ P-0801: T-033, p. 10, lines 7-12; T-037, p. 83, line 8 to p. 84, line 3; P-0808: [CAR-OTP-2093-0010-R02](#), para. 65; [CAR-OTP-2025-0324-R05](#), para. 151; P-0876: T-085, p. 9, lines 3-4.

⁵⁵⁰ P-0808: [CAR-OTP-2093-0010-R02](#), para. 65; [CAR-OTP-2025-0324-R05](#), para. 151; T-069, p. 16, lines 11-20, p. 23, lines 1-19; P-0876: T-085, p. 9, lines 3-4; P-0801: T-034, p. 31, lines 7-28.

⁵⁵¹ D30-4720: T-280, p. 74, lines 15-23; P-0876: T-085, p. 9, lines 3-4; P-0884: T-055, p. 41, line 12, to p. 42, lines 3.

⁵⁵² P-2232: T-076, p. 3, lines 7-28; P-0884: T-055, p. 23, line 8 to p. 24, line 8, p. 32, line 11 to p. 33, line 13; P-1521: T-081, p. 10, line 11 to p. 11, line 8, p. 25, lines 12 to p. 26, line 8.

⁵⁵³ P-0889: [CAR-OTP-2122-8112-R02](#), p. 8115, line 78 to p. 8117, line 174; T-111, p. 21, lines 11-22; P-0888: [CAR-OTP-2034-0463-R02](#), paras. 30-31. See also for various contacts, [CAR-OTP-2122-7740-R02](#), pp. 7748-7780; P-2232: T-076, p. 46, lines 24-27.

⁵⁵⁴ See for FACA members of the Gobere Group: [CAR-OTP-2068-0118](#).

⁵⁵⁵ P-2232: T-075, p. 44, lines 12-15; P-0884: T-055, p. 38, lines 10-19.

⁵⁵⁶ P-2232: T-077, p. 5, lines 8-11; P-1521: T-081, p. 19, lines 8-22.

⁵⁵⁷ P-2232: T-077, p. 5, lines 5-7.

⁵⁵⁸ P-2232: T-075, p. 44, lines 17-18.

⁵⁵⁹ P-0884: T-055, p. 24, lines 21-26 p. 73, line 12-17; P-0889: [CAR-OTP-2122-8112-R02](#), p. 8116, lines 105-111; P-0954: T-166, p. 77, lines 4-5.

⁵⁶⁰ P-0889: [CAR-OTP-2034-0463-R02](#), para. 34; [CAR-OTP-2122-8146-R02](#), p. 8169, lines 789-791; P-1521: T-081, p. 23, lines 11-20.

⁵⁶¹ P-0889: [CAR-OTP-2122-8146-R02](#), p. 8172, lines 883-888; P-0884: T-055, p. 29, lines 3-8.

⁵⁶² P-1172: [CAR-OTP-2082-1058-R03](#), para. 33; P-2232: T-075, p. 45, lines 6-8; P-1521: T-081, p. 28, lines 1-3; P-0876: T-088, p. 32, lines 11-12.

⁵⁶³ P-1172: [CAR-OTP-2082-1058-R03](#), para. 33; P-2232: T-075, p. 45, lines 6-8; P-0884: T-055, p. 27, lines 7-19, p. 29, lines 25-28; P-0876: T-088, p. 32, lines 11-12.

⁵⁶⁴ P-0884: T-055, p. 27, lines 20-23, p. 29, lines 25-28.

⁵⁶⁵ P-0884: T-055, p. 27, lines 24-28.

⁵⁶⁶ P-0884: T-055 p. 27, lines 24-28, p. 29, lines 3-8; P-1521: T-081, p. 19, lines 16-22.

⁵⁶⁷ P-0884: T-055, p. 30, lines 10-21.

⁵⁶⁸ P-1521: T-081, p. 23, line 21 to p. 24, line 7; P-0954: T-166, p. 77, lines 6-7.

⁵⁶⁹ P-1521: T-081, p. 19, lines 15-22.

0446.⁵⁷⁰

6. CLPC

173. CLPC was established through the initiative of Mokom while he was in Zongo prior to 5 December.⁵⁷¹ CLPC was not carrying out military operations by December 2013, but rather was an organisation aimed at persuasion and mobilisation of the population to bring Bozizé back to power.⁵⁷² Individuals associated with CLPC in late 2013 - early 2014 included, *inter alia*, P-0306, Konaté, P-0446,⁵⁷³ P-0808,⁵⁷⁴ Lebene,⁵⁷⁵ Ngremangou and P-0884.⁵⁷⁶

7. FRAPPE ([REDACTED])

174. In the period before 5 December, P-0954 [REDACTED] to resist the Seleka.⁵⁷⁷ [REDACTED].⁵⁷⁸ People who escaped the Seleka atrocities and civilians who were part of self-defence groups in the villages [REDACTED].⁵⁷⁹ FRAPPE [REDACTED], 23 FACA soldiers.⁵⁸⁰ Since FRAPPE was not a known name, people outside the group referred to them as an 'anti-balaka' group.⁵⁸¹

8. [REDACTED]

175. P-0974, [REDACTED] after the 5th December.⁵⁸² [REDACTED].⁵⁸³

C. Coordination attempts

1. P-0876 meetings with [REDACTED] (November-December 2013)

176. Before 5 December, P-0876 was [REDACTED] around Bangui to convince them to choose a peaceful path to remove Djotodia from power.⁵⁸⁴ After connecting with [REDACTED], P-0876 contacted Lebene and his group located behind the Gbazabangui Hill and had a series of meetings with them to convince them to favour dialogue and peaceful engagement with the international

⁵⁷⁰ P-2232: T-076, p. 22, line 4, p. 32, lines 18-19.

⁵⁷¹ P-0446: [CAR-OTP-2059-1567-R01](#), p. 1573, line 227 to p. 1574, line 237; T-096, p. 34, lines 22 to p. 35, line 20, p. 56, lines 8-12; T-099, p. 5, lines 13-18.

⁵⁷² P-0808: T-069, p. 45, line 20 to p. 46, line 4, p. 57, lines 9-12.

⁵⁷³ P-0446: T-096, p. 75, lines 12-28.

⁵⁷⁴ P-0446: T-096, p. 56, lines 18-19 referring to [CAR-OTP-2124-0996](#).

⁵⁷⁵ P-0446: T-096, p. 72, line 20 to p. 73 line 7.

⁵⁷⁶ P-0808: T-069, p. 56, lines 20-25 referring to [CAR-OTP-2124-0516](#).

⁵⁷⁷ P-1858: [CAR-OTP-2063-0050-R04](#), paras. 28, 30, 33.

⁵⁷⁸ P-1858: [CAR-OTP-2063-0050-R04](#), para. 29.

⁵⁷⁹ P-1858: [CAR-OTP-2063-0050-R04](#), para. 28; T-185, p. 71, lines 2-13.

⁵⁸⁰ P-1858: [CAR-OTP-2063-0050-R04](#), paras. 30-32, [REDACTED].

⁵⁸¹ P-1858: T-185, p. 71, lines 21-28.

⁵⁸² P-0974: [CAR-OTP-2118-0813-R01](#), paras. 12, 48-49; T-244, p. 10 lines 5-15.

⁵⁸³ P-0974: [CAR-OTP-2118-0813-R01](#), para. 62; T-244, p. 12, lines 7-19.

⁵⁸⁴ P-0876: T-085, p. 24, line 17 to p. 26, line 9; see also [CAR-OTP-2084-1319](#) / [CAR-OTP-2107-1577](#), [CAR-OTP-2084-1323](#) / [CAR-OTP-2107-1580](#) and [CAR-OTP-2084-1327](#) / [CAR-OTP-2107-1583](#).

community to secure the departure of Djotodia.⁵⁸⁵ [REDACTED].⁵⁸⁶ [REDACTED],⁵⁸⁷ [REDACTED] who rejected his ideas for peace and prohibited him from [REDACTED] any further.⁵⁸⁸

2. [REDACTED] meeting with RFACPP ([REDACTED])

177. After his unsuccessful attempts with [REDACTED] to accept a peaceful transition,⁵⁸⁹ Colonel Dépit (the military attaché of French embassy) informed [REDACTED] about the existence of other self-defence groups located around the Boeing airport and provided [REDACTED] with Mr. Yekatom's contact information.⁵⁹⁰

178. [REDACTED], P-0876 contacted Mr. Yekatom,⁵⁹¹ [REDACTED] meeting at Yamwara to explain his ideas.⁵⁹² When P-0876 arrived to Yamwara for the meeting, he observed (in great contrast to the area under others groups' control) that normalcy had returned to the daily lives of the inhabitants of the area.⁵⁹³ [REDACTED] P-0876 met at Yamwara, and there was no demonstration of power by Mr. Yekatom towards P-0876.⁵⁹⁴

179. When P-0876 explained his approach [REDACTED] accepted the idea to engage in dialogue to prevent a war.⁵⁹⁵ Mr. Yekatom explained to P-0876 that their goal was to defend the population and they did not support the return of Bozizé to power.⁵⁹⁶ Mr. Yekatom also mentioned to P-0876 that things were not going well with their 'brothers' on the other side and that there was always conflict between them.⁵⁹⁷

3. Meetings at Yamwara ([REDACTED])

180. Following their meeting, [REDACTED] Mr. Yekatom to put him in contact with the pro-Bozizé

⁵⁸⁵ P-0876: T-085, p. 24, line 17 to p. 26, line 9; T-086, p. 41, lines 8-16; [CAR-OTP-2046-0380-R01](#), p. 0403, line 842 to p. 0404, line 878.

⁵⁸⁶ P-0876: T-085, p. 26, line 10 to p. 27, line 1; T-086, p. 41, lines 8-16.

⁵⁸⁷ P-0876: T-085, p. 27, lines 2-25; T-086, p. 41, lines 8-16.

⁵⁸⁸ P-0876: T-085, p. 27, line 26 to p. 28, line 15; T-086, p. 41, lines 8-21; [CAR-OTP-2046-0249-R01](#), p. 0260, line 434 to p. 0261, line 458; See also [REDACTED] [CAR-OTP-2084-1319](#), [00:04:40] to [00:05:13] / [CAR-OTP-2107-1577](#), lines 44-48; [CAR-OTP-2084-1323](#), [00:00:00] to [00:00:43] / [CAR-OTP-2107-1580](#), lines 4-10.

⁵⁸⁹ P-0876: T-085, p. 24, lines 17 to 28; T-086, p. 41, lines 8-21, p. 44, lines 8-19. See also [REDACTED]; T-085, p. 17, lines 3-21.

⁵⁹⁰ P-0876: T-085, p. 39, lines 3-24; T-086, p. 50, line 15 to p. 51, line 27, p. 89 lines 22-27, p. 92, lines 10-15.

⁵⁹¹ P-0876: T-089, p. 11, line 24 to p. 13, line 1.

⁵⁹² P-0876: T-085, p. 40, lines 1-27; T-086, p. 51, line 7 to p. 52, line 8; See also [REDACTED] [CAR-OTP-2084-1323](#), [00:02:04] to [00:03:48] / [CAR-OTP-2107-1580](#), lines 25-43.

⁵⁹³ P-0876: T-086, p. 51, line 28 to p. 52, line 25.

⁵⁹⁴ P-0876: T-086, p. 51, line 28 to p. 52, line 25, p. 55, lines 21-25, p. 56, lines 5-11.

⁵⁹⁵ P-0876: T-085, p. 40, line 10 to 41, line 20.

⁵⁹⁶ P-0876: T-086, p. 52, lines 17-20, p. 55, lines 12-24, p. 57, line 24 to p. 58 line 8.

⁵⁹⁷ P-0876: T-086, p. 52, lines 20-21, p. 59, lines 6-14.

self-defence groups.⁵⁹⁸ Mr. Yekatom contacted Ngremangou [REDACTED],⁵⁹⁹ [REDACTED],⁶⁰⁰ [REDACTED], Mr. Yekatom, [REDACTED].⁶⁰¹

181. During the meeting, RFACPP and FRAPPE reiterated that their objective was not to fight for Bozizé's return, but to oust Djotodia and allow the population to democratically elect a new leader.⁶⁰² Ngremangou initially agreed with these goals.⁶⁰³

182. A bureau was set up to enter into dialogue with the international community to facilitate the ousting of Djotodia without violence.⁶⁰⁴ [REDACTED] bureau which was against Bozizé's return.⁶⁰⁵ This bureau, however, lasted only a few hours as in the evening of the same day, Ngremangou [REDACTED].⁶⁰⁶ Thus, Ngremangou explained he had to withdraw from the bureau.⁶⁰⁷

183. [REDACTED] to include other individuals who would represent the pro-Bozizé lobby (i.e. Konaté and Azounou) also failed.⁶⁰⁸ [REDACTED] for peaceful transition was also unsuccessful due to the latter's hostility and intransigence.⁶⁰⁹ These experiences [REDACTED] to continue his efforts for peace together with the RFACPP which shared his vision.⁶¹⁰

184. Thereafter, it was decided that a committee should be set up with the individuals who did not support the return of Bozizé to engage with the international [REDACTED].⁶¹¹ [REDACTED] went to Yamwara a fourth time with General Toumeta, Red Cross and France24 to introduce them to the self-defence groups who wanted peace.⁶¹²

4. Meeting of Pro-Bozizé groups in N'Djamena (9 January 2014)

⁵⁹⁸ P-0876: T-085, p. 40, lines 18-26.

⁵⁹⁹ P-0876: T-085, p. 40, lines 18-26; T-086, p. 59, line 11 to p. 60, line 14; [CAR-OTP-2046-0407-R01](#), p. 0422, line 556 to p. 0423, line 575.

⁶⁰⁰ P-0884: T-057, p. 67, line 28, to p. 69, line 6; P-1858: [CAR-OTP-2063-0050-R04](#), paras. 55, 57-58; T-186, p. 29, lines 8-26.

⁶⁰¹ P-0876: T-085, p. 41, lines 13-15; T-086, p. 59, line 25 to p. 60, line 14.

⁶⁰² P-0884: T-057, p. 68, lines 12-22; P-0954: T-166, p. 78, line 10 to p. 79, line 5; T-167, p. 75, lines 15-28; P-0954: T-167, p. 74, line 23 to p. 75, line 19.

⁶⁰³ P-0876: T-085, p. 41, lines 4-12.

⁶⁰⁴ P-0876: T-085, p. 41, lines 5-24; T-086, p. 47, lines 15-26, p. 62, lines 9-17.

⁶⁰⁵ P-0876: [CAR-OTP-2046-0427-R01](#), p. 0430, lines 100-103.

⁶⁰⁶ P-0876: T-085, p. 41, lines 21-24; T-086, p. 62, line 18 to p. 63, line 7; [CAR-OTP-2046-0249-R01](#) p. 0262, line 522 to p. 0263, line 548; [CAR-OTP-2046-0427-R01](#), p. 0434, lines 244-253.

⁶⁰⁷ P-0876: T-085, p. 41, lines 21-24, p. 43, lines 1-8; T-086, p. 62, line 18 to p. 63, line 7; [CAR-OTP-2046-0249-R01](#) p. 0262, line 522 to p. 0263, line 548.

⁶⁰⁸ P-0876: T-086, p. 47, lines 22-25.

⁶⁰⁹ P-0876: T-085, p. 50, line 20, to p. 51, line 26.

⁶¹⁰ P-0876: T-085, p. 49, line 26 to p. 51, line 26; T-086, p. 64, lines 11-19; See also [REDACTED] [CAR-OTP-2084-1323](#), [00:02:04] to [00:03:48] / [CAR-OTP-2107-1580](#), lines 25-43.

⁶¹¹ P-0876: [CAR-OTP-2046-0249-R01](#), p. 0263, lines 539-548; [CAR-OTP-2046-0324-R01](#), p. 0336, lines 423-437; T-086, p. 63, line 3 to p. 64, line 19.

⁶¹² P-0876: T-086, p. 65, line 21 to p. 66, line 22; [CAR-OTP-2046-0324-R01](#), p. 0336, lines 423-447.

185. On the other side, on 9 January 2014, the pro-Bozizé groups held a meeting to discuss their demands, including the question of the return to the constitutional order, during the N'Djamena Summit planned for 10 January 2014.⁶¹³ [REDACTED].⁶¹⁴

186. Ultimately, separate coordination bodies crystallised albeit loosely, namely Anti-Balaka North Coordination and Anti-Balaka South Coordination.⁶¹⁵ The latter continued its cooperation initiative with the international community and stance against the return of Bozizé to power.⁶¹⁶

5. Period after the resignation of Djotodia

a) Resignation of Djotodia (10 January 2014)

187. On January 10 2014, the President of Chad, Idriss Déby, convened a summit in N'Djamena.⁶¹⁷ [REDACTED].⁶¹⁸ [REDACTED].⁶¹⁹

188. During the summit, [REDACTED] '12 Demands' for Djotodia's departure without war (i.e. demands for peace, democratic election of a new president, departure of the Seleka mercenaries for dialogue, and cooperation with international community)⁶²⁰ that were prepared and agreed upon by the Anti-Balaka South Coordination,⁶²¹ in collaboration with the international community (i.e. MISCA and AU).⁶²² The international community agreed with these demands⁶²³ and ultimately forced Djotodia to resign.⁶²⁴

189. After [REDACTED] N'Djamena, [REDACTED] the Anti-Balaka South Coordination were regarded negatively by the members of the Anti-Balaka North Coordination due to [REDACTED] advocacy against the return of Bozizé.⁶²⁵ Even after Djotodia's resignation, the divergence between the views of the two coordinations persisted.⁶²⁶

b) Anti-Balaka North Coordination under Mr. Ngaïssona (14 January 2014)

⁶¹³ P-0884: T-056, p. 31, line 4 to p. 34, line 27; [CAR-OTP-2124-0512](#).

⁶¹⁴ P-0884: T-056, p. 32, lines 10-21; [CAR-OTP-2124-0512](#).

⁶¹⁵ P-0974: [CAR-OTP-2118-0813-R01](#), paras. 70-71; T-243, p. 47, line 17 to p. 48, line 12; P-0954, [CAR-OTP-2048-0171-R03](#), paras. 45-46.

⁶¹⁶ P-0876: T-086, p. 63, line 3 to p. 64, line 19; P-0954: T-167, p. 73, line 14 to p. 74, line 3.

⁶¹⁷ P-2084: [CAR-OTP-2094-0968-R02](#), para. 63.

⁶¹⁸ P-0876: T-086, p. 71, lines 18-20, p. 83, lines 13-20.

⁶¹⁹ P-0876: T-086, p. 70, line 22 to p. 71, line 17.

⁶²⁰ P-1858: T-186, p. 41, lines 3-18.

⁶²¹ P-0876: T-086, p. 67, lines 20-28, p. 69, line 23 to p. 70, line 4; [CAR-OTP-2046-0249-R01](#), p. 0263, lines 550-572; P-0954: T-167, p. 73, line 15 to p. 74, line 12.

⁶²² P-0876: [CAR-OTP-2046-0427-R01](#), p. 0434, lines 238-248; [CAR-OTP-2046-0249-R01](#), p. 0263, lines 550-581; T-086, p. 64, line 21 to p. 65, line 20.

⁶²³ P-0876: T-086, p. 64, line 21 to p. 65, line 20, p. 84, line 21 to p. 85, line 6; [CAR-OTP-2046-0249-R01](#), p. 0263, lines 550-581; See video [CAR-OTP-2084-1319](#), [00:00:25] to [00:00:35] / [CAR-OTP-2107-1577](#), lines 6-8.

⁶²⁴ P-1858: [CAR-OTP-2063-0050-R043](#), para. 66; T-186, p. 41, lines 3-18; P-0876: T-086, p. 67, lines 20-28.

⁶²⁵ P-0876: T-085, p. 60, lines 22-26; T-086, p. 76, lines 2-9; [CAR-OTP-2046-0530-R02](#), p. 0531, lines 21-23.

⁶²⁶ P-0876: T-086, p. 92, lines 5-11.

190. Mr. Ngaïssona returned to Bangui on 14 January 2014, shortly after Djotodia's resignation.⁶²⁷ A series of meetings were held and Mr. Ngaïssona was chosen to be their representative/coordinator before the international community.⁶²⁸ No one from the Anti-Balaka South Coordination attended any of these meetings.⁶²⁹ By this time, the distinction between the pro and anti-Bozizé groups was well known.⁶³⁰

c) Meeting at the National Assembly (15 January 2014)

191. On 15 January 2014, the members of the Anti-Balaka South Coordination participated in the parliamentary discussions at the National Assembly.⁶³¹ Following General Toumeta's advice, Mr. Yekatom, [REDACTED] dressed in [REDACTED] FACA uniforms [REDACTED] to the National Assembly.⁶³² In order to attend the National Assembly safely, [REDACTED] transported in a MISCA military vehicle.⁶³³ [REDACTED] of the Anti-Balaka North Coordination and [REDACTED] same ideas expressed in the '12 Demands'⁶³⁴ [REDACTED] the Anti-Balaka South Coordination which was in the minority.⁶³⁵

6. Coordination attempts during TCV-0952's tenure

a) Meeting at TCV-0952's residence (20-23 January 2014)

192. Sometime between 20 and 23 January 2014, a meeting was organised by the MISCA General Garcia at TCV-0952's residence,⁶³⁶ for her to meet with the individuals who did not support the return of Bozizé (including [REDACTED], Mr. Yekatom, [REDACTED])⁶³⁷ and those in favour of his return (Mr. Ngaïssona, [REDACTED], Konaté and Yagouzou).⁶³⁸ Mr. Yekatom and RFACPP representatives attended the meeting with the assistance of MISCA vehicles and were

⁶²⁷ P-1521: T-082, p. 7, line 23 to p. 8, line 13.

⁶²⁸ P-1521: T-082, p. 7, line 23 to p. 8, line 13, p. 9, line 4 to p. 10, line 16, p. 11, line 19 to p. 12, line 12, p. 15, line 18 to p. 16, line 28; T-084, p. 18, lines 15-21; P-0992: [CAR-OTP-2128-0288-R02](#), paras. 111-124; P-0889: T-109, p. 79, line 17, to p. 80, line 19.

⁶²⁹ See for instance, P-0974: [CAR-OTP-2058-0165-R01](#), para. 75.

⁶³⁰ P-0876: T-086, p. 83, lines 13-16; P-1521: T-084, p. 18, lines 23-27.

⁶³¹ P-0876: T-085, p. 60, lines 6-21; T-086, p. 71, line 21 to 73, line 3; P-0954: T-167, p. 82, lines 2-8; P-0487: T-204, p. 77, lines 7-16.

⁶³² P-0876: T-086, p. 72, line 5 to p. 73, line 3; [CAR-OTP-2046-0249-R01](#), p. 0264, line 605 to p. 0265, line 631; P-0954: T-167, p. 82, lines 18-24; P-0487: T-204, p. 77, lines 17-20; P-0974: T-243, p. 55, line 20 to p. 56, line 27.

⁶³³ P-0876: T-085, p. 60, lines 6-27; T-086, p. 72, lines 13-26; P-0954: T-167, p. 82, lines 18-24; P-0487: T-204, p. 77, lines 21-23; P-0974: T-243, p. 56, line 28 to p. 57, line 3.

⁶³⁴ P-0876: T-086, p. 72, line 27 to p. 74, line 24; [CAR-D29-0016-0051](#).

⁶³⁵ P-0876: T-086, p. 73, lines 13-22.

⁶³⁶ P-0876: T-086, p. 75, line 20 to p. 76, line 9; TCV-0952: T-250, p. 12, lines 1-7; T-252, p. 41, line 24 to p. 42, line 22; P-0974: T-243, p. 58, lines 3-12; P-1839: T-173, p. 5, lines 9-20. See exhibit [CAR-OTP-2087-9027](#) [REDACTED].

⁶³⁷ P-0876: T-085, p. 63, line 6-16; P-0954: T-167, p. 83, lines 1-9.

⁶³⁸ TCV-0952: T-249, p. 19, line 10 to p. 20, line 21; P-0876: T-085, p. 63, line 6-16; T-086, p. 75, line 20 to p. 76 line 27; P-0954: T-167, p. 84, lines 2-11; P-0974: T-243, p. 57, line 21 to p. 59, line 4; P-0487: T-204, p. 76, lines 2-9, p. 77 line 24 to p. 78, line 4; T-205, p. 18, lines 27, to p. 20, line 28.

dressed in their FACA uniforms.⁶³⁹ Such security measures were deemed necessary due to the continuing threat posed by the Seleka and the negative perception towards them due to their stance against the return of Bozizé.⁶⁴⁰

193. Immediately after the meeting at TCV-0952's residence, General Essongo⁶⁴¹ asked the two groups to accompany him to his office and asked [REDACTED].⁶⁴² Immediately after the meeting, however, Mr. Ngaïssona publicly denounced this coordination and refused to be a part of it.⁶⁴³ As a result, the coordination never became operational.⁶⁴⁴ During both of these meetings, Mr. Yekatom introduced his group by using the name RFACPP,⁶⁴⁵ was dressed in military attire⁶⁴⁶ and advocated for peace.⁶⁴⁷

b) Anti-Balaka North Coordination meeting (6 February 2014)

194. By mid-February 2014, the configuration of the National Coordination of Anti-Balaka among the Anti-Balaka South Coordination crystallised.⁶⁴⁸ By then, there was still no single coordination between the North and the South,⁶⁴⁹ as the Anti-Balaka South Coordination was not involved.⁶⁵⁰ Mr. Yekatom did not attend their meetings and his name does not figure in any documents created by this coordination from January to March 2014.⁶⁵¹

c) Gathering at Pissmiss (15 May 2014)

195. On 8 May 2014, the Minister of Reconciliation Montaigne requested the 'anti-balaka' to structure

⁶³⁹ P-0954: T-167, p. 83, lines 1-13; P-0876: T-086, p. 76, lines 2-9; P-1839: T-171, p. 76, line 24 to p. 77, line 26; T-173, p. 11, line 23 to p. 12, line 4; P-0487: T-205, p. 20, lines 4, 12-19.

⁶⁴⁰ P-0876: T-086, p. 76, lines 5-9; P-0954: T-167, p. 83, lines 14-21.

⁶⁴¹ [CAR-OTP-2001-1976](#), p. 1995; P-0876: T-085, p. 61, lines 23-26.

⁶⁴² P-0876: T-085, p. 61, line 4 to p. 63, line 15; T-086, p. 77, lines 11-23, p. 80, lines 15-22; T-087, p. 6, lines 15-21; T-088, p. 56, lines 4-25; For the single coordination document created in Essongo's office see [CAR-OTP-2001-3372](#); P-1839: T-171, p. 78, lines 3-20; P-0974: T-243, p. 61, lines 6-22; P-0487: T-205, p. 21, line 22 to p. 23, line 24.

⁶⁴³ P-0876: T-085, p. 62, line 12 to p. 63, line 4; T-086, p. 80, line 23 to p. 81, line 6, p. 90, line 25 to p. 91, line 7; P-0487: T-205, p. 21, line 22 to p. 23, line 24. See also video [CAR-OTP-2084-1323](#), [00:04:53] to [00:05:06] / [CAR-OTP-2107-1580](#), lines 55-57: the Defence notes an inaccuracy of the transcription, [REDACTED]. See the continuation of the speech in video [CAR-OTP-2084-1327](#), [00:00:00] to [00:00:40] / [CAR-OTP-2107-1583](#), lines 3-10.

⁶⁴⁴ P-0876: T-086, p. 78, lines 21-26; P-0487: T-205, p. 23, lines 21-24.

⁶⁴⁵ P-1839: T-173, p. 12, lines 10-19.

⁶⁴⁶ P-1839: T-173, p. 12, lines 5-9; P-0487: T-205, p. 22, lines 18-23.

⁶⁴⁷ P-1839: T-173, p. 8, line 14 to p. 9, line 8; P-0876: T-086, p. 79, lines 5-11.

⁶⁴⁸ P-1521: T-082, p. 15, line 18 to p. 16, line 28; See [CAR-OTP-2084-0049](#), p. 0053.

⁶⁴⁹ P-0876: T-086, p. 80, line 23 to p. 81, line 6.

⁶⁵⁰ P-1193: T-124, p. 64, lines 8-22; P-0808: T-072, p. 50, line 1 to p. 51, line 4, p. 53, line 2 to p. 54, line 16; P-1521, p. 14, lines 5-9; P-0992: [CAR-OTP-2110-0048-R05](#), paras. 65-100; [CAR-OTP-2128-0288-R02](#), para. 111. See [CAR-OTP-2025-0380](#), [CAR-OTP-2006-1210](#) and [CAR-OTP-2035-0061](#) not signed by RFACPP members.

⁶⁵¹ See, for instance [CAR-OTP-2025-0380](#), p. 0384; [CAR-OTP-2035-0061](#), pp. 0061-0063; [CAR-OTP-2006-1210](#), p. 1213; P-0876: T-086, p. 81, line 7 to p. 82, line 4; P-0884: T-057, p. 13, lines 18-26; P-0808: T-070, p. 59, line 25 to p. 60, line 7; T-072, p. 49, line 3 to 27, p. 50, lines 1 to p. 51, lines 4, p. 53, line 2 to p. 54, line 16.

themselves and designate a single coordinator.⁶⁵² Following this meeting, an *ad hoc* coordination was established [REDACTED].⁶⁵³ The Anti-Balaka North Coordination was not included.⁶⁵⁴ During this time, there was still no unity or a single coordination between the North and the South in place.⁶⁵⁵

196. On 15 May 2014, a gathering was organised at Pissmiss after a request from the government to have a representative. Members from both coordinations were invited.⁶⁵⁶ [REDACTED], Mr. Yekatom, [REDACTED] were present in this meeting⁶⁵⁷ whereas Mr. Ngaïssona was not.⁶⁵⁸ International actors that the Anti-Balaka South Coordination were already cooperating with (such as the Sangaris and MISCA)⁶⁵⁹ as well as representatives of NGOs such as Mouda and Pareto were also present.⁶⁶⁰ The purpose of the meeting was to appeal for peace, reunification, social cohesion and reconciliation and to bring the relevant stakeholders together towards these objectives.⁶⁶¹ The message of the Anti-Balaka South Coordination was that Muslims were not their enemies.⁶⁶² [REDACTED].⁶⁶³

d) UNDP meeting at the Azimuth Hotel (24 June 2014)

197. The efforts to create a unified coordination culminated into a meeting organised by a group of NGOs at the UNDP offices at Azimuth Hotel on 24 June 2014 with the participation of more than

⁶⁵² P-1193: T-124, p. 68, line 11 to p. 69, line 16; P-1858: T-186, p. 45, lines 9-18; P-0888: [CAR-OTP-2031-0217-R03](#), para. 38; [CAR-OTP-2001-4699](#), p. 4700; [CAR-OTP-2079-0050](#), p. 0051; See also video [CAR-OTP-2023-1990](#), [00:00:00] to [00:03:00] / [CAR-OTP-2122-9420](#), p. 9424, lines 1-38.

⁶⁵³ P-0888: [CAR-OTP-2031-0217-R03](#), para. 39; P-1193: T-124, p. 68, lines 17-22; P-1858: [CAR-OTP-2063-0050-R04](#), para. 68; [CAR-OTP-2079-0050](#), p. 0051.

⁶⁵⁴ P-0888: [CAR-OTP-2031-0217-R03](#), para. 39; P-1858: [CAR-OTP-2063-0050-R04](#), paras. 68-70; T-186, p. 45, lines 9-26; P-0446: [CAR-OTP-2059-1546-R02](#), pp. 1547-1549, lines 35-91; P-0808: [CAR-OTP-2134-1737](#), para. 92.

⁶⁵⁵ P-0876: T-087, p. 7, lines 1-27; P-1858: [CAR-OTP-2063-0050-R04](#), paras. 68-70; T-186, p. 45, lines 9-26; P-0888: T-120, p. 83, line 22 to p. 84, line 17.

⁶⁵⁶ P-0954: [CAR-OTP-2048-0171-R03](#), para. 65; T-169, p. 27, line 6 to p. 28, line 22; P-0884: T-056, p. 65, line 3 to p. 66, line 25; [CAR-D29-0002-0098](#); [CAR-D30-0008-0041](#), p. 0041. See the collection of videos of the 15 May 2014 meeting: [CAR-OTP-2084-1303](#) / [CAR-OTP-2122-2362](#); [CAR-OTP-2084-1307](#) / [CAR-OTP-2122-2366](#); [CAR-OTP-2084-1315](#) / [CAR-OTP-2107-1574](#); [CAR-OTP-2084-1319](#) / [CAR-OTP-2107-1577](#); [CAR-OTP-2084-1323](#) / [CAR-OTP-2107-1580](#); [CAR-OTP-2084-1327](#) / [CAR-OTP-2107-1583](#); [CAR-OTP-2084-1331](#) / [CAR-OTP-2107-1586](#); [CAR-OTP-2084-1335](#) / [CAR-D29-0006-1176](#); [CAR-OTP-2084-1339](#); [CAR-OTP-2084-1343](#) / [CAR-OTP-2122-7411](#); [CAR-OTP-2084-1347](#) / [CAR-D29-0006-1175](#).

⁶⁵⁷ P-0876: T-086, p. 89, line 28 to p. 90, line 10; P-1858: [CAR-OTP-2063-0050-R04](#), para. 68; T-186, p. 45, lines 6-18.

⁶⁵⁸ P-0954: [CAR-OTP-2048-0171-R03](#), para. 65; T-169, p. 28, lines 17-22; See video [CAR-OTP-2084-1327](#), [00:00:00] to [00:01:03] / [CAR-OTP-2107-1583](#), lines 4 to 14.

⁶⁵⁹ P-0954: T-167, p. 88, line 11 to p. 89, line 15; P-0876: T-087, p. 5, lines 22-28; P-1858: T-186, p. 44, line 19 to p. 45, line 5.

⁶⁶⁰ P-1193: T-126, p. 61, lines 4-15; P-0954: T-167, p. 88, line 11 to p. 89, line 15.

⁶⁶¹ P-0888: T-122, p. 7, line 6 to p. 8, line 6; P-0954: T-167, p. 88, line 23 to p. 89, line 1 where he recanted the substance of paragraph 65 of his statement (i.e. [CAR-OTP-2048-0171-R03](#)). This position was also confirmed by P-1858: T-186, p. 48, lines 11-22; P-1193: T-126, p. 58, line 13 to p. 59, line 5, p. 61, lines 16-23, p. 65, lines 14-20.

⁶⁶² P-1193: T-126, p. 61, line 24 to p. 62, line 4; [CAR-D30-0008-0041](#).

⁶⁶³ P-0954: T-166, p. 72, lines 14-20; P-1193: T-126, p. 58, line 23 to p. 59, line 2; [CAR-D30-0008-0041](#), p. 0041; [CAR-OTP-2001-4867](#), p. 4867.

500 people, including Mr. Ngaïssona, Mr. Yekatom, [REDACTED], [REDACTED], and personnel of MINUSCA, Sangaris and Mouda.⁶⁶⁴ Before this meeting, there still was no coordination/collaboration/cooperation or a unified structure/ hierarchy in place between the Southern Group and Northern Group.⁶⁶⁵

198. The outcome of this meeting was the unification of the two coordinations and establishment of the National Coordination of the Anti-Balaka with Mr. Ngaïssona as the umbrella coordinator.⁶⁶⁶ This unification was aimed at creating a single group for the Brazzaville Forum, as demanded by the CAR government.⁶⁶⁷ The Anti-Balaka South Coordination was initially opposed to a merger.⁶⁶⁸ The National Coordination was prepared ahead of Brazzaville to give the appearance of an organisation, but it only existed on paper.⁶⁶⁹ Furthermore, the National Coordination did not fully control the group leaders who themselves often had difficulty controlling their own elements, especially in the provinces.⁶⁷⁰ Even during this period, the ‘anti-balaka’ was not homogenous and there were many groups within it that did not recognise, and was, thus, not controlled by the National Coordination.⁶⁷¹

IV. ANALYSIS OF EVIDENCE

A. *Révolution des Forces Armées Centrafricaines pour le Peuple* movement

1. Role of the civilian population in the CAR crisis

199. The confirmed charges as framed present events in CAR as a traditional conflict between two armed groups i.e. the ‘anti-balaka’ and the ‘Seleka’ throughout the period September 2013 to December 2014.⁶⁷² Indeed, it is the OTP case - buried in a footnote - that the ‘Seleka’ ‘refers to

⁶⁶⁴ P-0884: T-056, p. 62, lines 11-22, p. 65, line 1 to p. 66, line 22; P-0954: T-167, p. 85, lines 7-27; P-0446: [CAR-OTP-2059-1523-R01](#), p. 1541, line 679 to p. 1542, line 725; P-1193: [CAR-OTP-2135-2773-R01](#), paras. 37-38; T-124, p. 68, line 17 to p. 69, line 16; P-1858: [CAR-OTP-2063-0050-R04](#), paras. 71-73; T-187, p. 15, lines 19-25; P-0888: [CAR-OTP-2031-0217-R03](#), paras. 40-41; [CAR-OTP-2084-0164](#); P-0954: [CAR-OTP-2048-0171-R03](#), paras. 68-69; P-0888: T-120, p. 80, line 27 to p. 81, line 9. See video [CAR-OTP-2023-2227](#) / [CAR-D29-0006-0985](#).

⁶⁶⁵ P-1858: [CAR-OTP-2063-0050-R04](#), paras. 71; T-187, p. 15, lines 14 to p. 16, line 2; P-0808: T-072, p. 48, line 26 to p. 49, line 27; [CAR-OTP-2135-2773-R01](#), paras. 37; [CAR-OTP-2031-0217-R03](#), para. 39; P-0876: T-088, p. 54, lines 2-27; P-0954: T-167, p. 87, lines 12-19.

⁶⁶⁶ P-0884: T-056, p. 62, lines 11-22; P-1193: [CAR-OTP-2135-2773-R01](#), para. 46; P-0992: T-092, p. 61, line 5 to p. 62, line 4; P-1858: [CAR-OTP-2063-0050-R04](#), paras. 71-73; P-0954: T-166, p. 72, line 21 to p. 73, line 4; P-1858: T-187, p. 16, lines 7-13; For the composition of the coordination, see: [CAR-OTP-2101-3611](#), p. 3613; [CAR-OTP-2039-0019](#); [CAR-OTP-2059-0024](#); P-1521: T-082, p. 18, lines 8-21.

⁶⁶⁷ P-0884: T-056, p. 65, lines 25-28.

⁶⁶⁸ P-0888: T-121, p. 83, line 23 to p. 84, line 17; P-1193: [CAR-OTP-2135-2773-R01](#), para. 39.

⁶⁶⁹ P-0889: T-109, p. 73, lines 1-21; P-1858: T-187, p. 20, lines 14-18.

⁶⁷⁰ P-1858: T-187, p. 30, lines 23-27.

⁶⁷¹ P-1521: T-082, p. 38, lines 15-26; TCV-0952: T-249, p. 46, lines 15-23.

⁶⁷² ICC-01/14-01/18-403-Conf-Corr, pp. 105-106.

the armed group also known as ‘ex-Seleka’ after September 2013’;⁶⁷³ and more pertinently, that the ‘anti-balaka’ encapsulates ‘any sub-group or plurality of members/elements thereof, whether or not formally organised or constituted’.⁶⁷⁴ Furthermore, throughout the trial, the OTP prematurely and erroneously recharacterized the scope of the ‘anti-balaka’ and Seleka groups in the absence of any evidential support.⁶⁷⁵

200. Despite its indeterminate classification of the armed groups, at no point in its description of events does the OTP directly acknowledge the role of civilians⁶⁷⁶ in the commission of crimes – some of which fall within those charged against Mr. Yekatom. This is not merely an oversight or an irrelevant omission but rather strikes at the core of the OTP’s narrative and its presentation of a skewed, inaccurate and one-sided version of events in CAR.

201. Indeed, there is abundance of evidence on record - elicited from a broad range of fact and expert witnesses called by the OTP, Chamber and Defence – which objectively establishes that civilians routinely perpetrated crimes throughout the charged period and across CAR.⁶⁷⁷ Moreover, in relation to crimes which targeted the Muslim population, these were often committed by individuals, local defence groups and/or civilian ‘mobs’ who self-identified as ‘anti-balaka’ and who were incentivised to commit such crimes for varying reasons.⁶⁷⁸

202. The commission of crimes (by local non-Muslim civilians in particular) is evidently relevant not only to the Chamber’s determination of the identity of the perpetrators of individual alleged crimes, but also to the so-called structures and membership of the ‘anti-balaka’ as asserted by the OTP, and to whether local civilian communities that did commit crimes were in fact controlled or defined by the umbrella ‘anti-balaka’ term.⁶⁷⁹ Moreover, the role of the local civilian population in the commission of crimes during the CAR crisis further stoked divisions created by Seleka

⁶⁷³ ICC-01/14-01/18-723-Conf, fn.5.

⁶⁷⁴ ICC-01/14-01/18-723-Conf, fn.6.

⁶⁷⁵ See TCV-0952: T-250, p. 3, line 18 to p. 4, line 21, where the OTP, seemingly disregarding the factual timeline, asserts that a speech by TCV-0952 about ‘anti-balaka’ and Seleka ([CAR-OTP-2087-9201](#), p. 9202) was made as early as August 2013. In reality, the speech was delivered in December 2013, as it contemporaneously cites to the death of Nelson Mandela ([CAR-OTP-2087-9201](#), p. 9203), which occurred on 5 December 2013 (TCV-0952: T-252, p. 22, lines 5-28).

⁶⁷⁶ For the purposes of this section, the term ‘civilian’ is in reference to the local civilian population and not non-military personnel in the RFACPP.

⁶⁷⁷ See [CAR-D29-0008-0007](#) / [CAR-D29-0006-1090](#) where the population is seen proclaiming: ‘*Mais les Balaka c’est qui ? C’est nous (...) les Balaka, c’est la population*’; P-2012: T-025, p. 41, lines 6-9: ‘Q. [...] local people just take a machete and become Anti-Balaka. So this term was used quite loosely, wouldn’t you agree? A. Yeah, I would agree with that.’

⁶⁷⁸ See [CAR-D29-0008-0007](#), [00:01:38] to [00:01:48] / [CAR-D29-0006-1090](#), lines 19-21, where an individual professes that ‘*Les Balakas c’est qui ? C’est nous [...] les Balaka c’est la population*’. See also P-2012: T-025, p. 41, lines 6-9. See also Defence’s submission ICC-01/14-01/18-2515-Conf-AnxC, pp. 5-7, item #11.

⁶⁷⁹ P-2012: T-025, p. 42, line 7 to p. 43, line 1; P-0954: T-167, p. 23, line 25, p. 24, line 5. P-0876: T-086, p. 75, lines 15-19; P-1521: T-084, p. 15, lines 3-24; P-0992: T-092, p. 26, lines 17 to p. 27, line 4; P-0889: [CAR-OTP-2122-7576-R02](#), p. 7586, line 348 to p. 7589, line 497; P-0291: T-052, p. 55, lines 3-24; D29-5012: T-294, p. 76, line 6 to p. 77, line 1; TCV-0952: T-252, p. 38, line 21 to p. 39, line 4; P-0954: T-167, p. 24, lines 25 to p. 25, line 6; P-2012: T-025, p. 43, lines 10-15.

atrocities amongst communities and tangibly led to chaos and instability across CAR.⁶⁸⁰

203. As discussed further below, it is this instability amongst local communities, and the absence of any alternative state protection, which forms the backdrop of Mr. Yekatom's conduct throughout the charged period including in relation to the establishment of the RFACPP, as a distinct group of FACA outside of the 'anti-balaka', the objectives and operation of the RFACPP in Boeing and Cattin as well as their movements across the PK9-Mbaïki axis.

a) Evidence of commission of crimes by the civilian population in CAR

204. As evidenced throughout this Brief, the commission of crimes by civilians throughout the charged period was prolific. 'Acts of vengeance' by informal local civilian communities⁶⁸¹ are described by a multitude of witnesses – including first-hand accounts provided by local CAR nationals as well as internationals - in relation to civilian-perpetrated crimes targeting both non-Muslims and Muslims.⁶⁸² With respect to the latter, this includes evidence of the killing of civilians,⁶⁸³ the pillaging of homes,⁶⁸⁴ the looting of businesses,⁶⁸⁵ the destruction of mosques,⁶⁸⁶ and the broader criminality of local individuals and groups,⁶⁸⁷ that were not identified as 'anti-balaka' and/or were never trained, controlled or associated with any group which was established

⁶⁸⁰ TCV-0952: T-249, p. 8, line 18 to p. 9, line 7; T-251, p. 4, line 21 to p. 5, line 4; P-0954: T-167, p. 45, lines 12-20; P-0291: T-051, p. 72, line 22 to p. 73, line 12; T-052, p. 4, line 28 to p. 8, line 4; [CAR-D30-0004-0102](#), paras. 26, 44, 49; P-1558: [CAR-OTP-2105-0195-R01](#), paras. 16-17; P-2353: [CAR-OTP-2100-0226-R03](#), paras. 14-20; P-0992: [CAR-OTP-2110-0048-R05](#), paras. 29, 31; D29-5013: T-285, p. 18, lines 3 to p. 19, line 3, p. 21, lines 1-8, p. 23, line 27 to p. 25, line 14; P-0461: [CAR-OTP-2031-0190-R01](#), para. 22; P-2324: [CAR-OTP-2100-2002-R02](#), para. 20; P-2652: [CAR-OTP-2126-0175-R01](#), paras. 44-45; P-1858: [CAR-OTP-2104-0630-R03](#), paras. 21-24; [CAR-OTP-2001-0241](#); [CAR-OTP-2100-1792](#), p. 1794. See also [CAR-OTP-2001-1756](#); [CAR-D29-0016-0101](#), p. 0105; [CAR-D29-0012-0001](#); and submissions made on these items in ICC-01/14-01/18-2516-Conf-AnxA, items # 15, 21, 27.

⁶⁸¹ Also captured on video footage see e.g. ICC-01/14-01/18-2661-Conf-AnxA, item 34 ([CAR-OTP-2012-0505](#)).

⁶⁸² See also P-0876: T-086, p. 39, lines 20-25; D29-5013: T-286, p. 11, lines 16-21.

⁶⁸³ P-2041: [CAR-OTP-2104-0003-R02](#), paras. 40, 43, 45-46; P-0992: [CAR-OTP-2110-0048-R05](#), paras. 78, 88; P-1576: T-239, p. 96, line 18 to p. 100, line 4.

⁶⁸⁴ P-1577: [CAR-OTP-2081-0769-R01](#), pp. 0799-0800; P-1077: [CAR-OTP-2107-3530-R01](#), p. 3547, lines 635-639; D29-5014: T-257, p. 35, lines 12-18. See also pictures of the pillaging of homes, belonging to both Muslims and Christians, in [CAR-OTP-2075-0074](#), pp. 0268-0279.

⁶⁸⁵ P-0291: T-052, p. 46, lines 14-27; TCV-0952: T-251, p. 18, lines 2-6; [CAR-D29-0008-0005](#), [00:00:00] to [00:00:12] / [CAR-D29-0006-1172](#), p. 1, lines 4-6; see also the interview of a journalist who witnessed the pillaging at [CAR-D29-0008-0012](#) / [CAR-D29-0006-1432](#).

⁶⁸⁶ P-0446: [CAR-OTP-2105-0647-R01](#), p. 0654, lines 225-231; P-1576: [CAR-OTP-2060-0280-R01](#), para. 25; P-0801: T-037, p. 49, lines 5 to 17; P-1143: [CAR-OTP-2058-0227-R03](#), para. 81; D29-5014: T-258, p. 58, lines 21 to 22; D29-4013: T-277, p. 27, lines 5-13 and lines 17-22; P-1521: T-084, p. 35, lines 6-19; [CAR-OTP-2074-0075](#) / [CAR-D29-0006-0001](#); [CAR-OTP-2107-1179](#) [00:00:00] to [00:00:21] / [CAR-D29-0006-0931](#), lines 6-8.

⁶⁸⁷ P-0888: T-121, p. 62, lines 3-23; P-0884: T-057, p. 26, line 20 to p. 27, line 6; P-2012: T-026, p. 30, line 13 to p. 31, line 16; P-0876: T-086, p. 36, lines 15-19; P-1813: [CAR-OTP-2063-0369-R02](#), paras. 25-26; P-2926: [CAR-D29-0005-0168](#), p. 0205; P-1858: T-185, p. 62, lines 17-24; P-1990: T-237, p. 23, lines 3-7, p. 23, line 27 to p. 24, line 1; P-0475: T-091, p. 13, lines 1-7 (referring to [CAR-OTP-2005-0084](#) [00:03:40] to [00:06:00] / [CAR-OTP-2130-1119](#), p. 1122, line 75 to p. 1123, line 112); P-1521: T-084, p. 31, lines 2-12, p. 32, lines 20-23; [CAR-OTP-2107-1179](#) / [CAR-D29-0006-0931](#); D29-5013: T-286, p. 11, lines 16-21; P-2084: [CAR-OTP-2094-0968-R02](#), para. 27; T-235, p. 5, line 24 to p. 6, line 15; D29-5015: T-256, p. 14, lines 9-12; D29-5016: [CAR-D29-0009-0576-R01](#), paras. 18, 20; [CAR-OTP-2073-1297](#), [00:05:17] to [00:05:38] / [CAR-D29-0006-0631](#), p. 0634, lines 17-20.

as, or aligned with, the ‘anti-balaka’.

205. Such attacks on the Muslim population were not isolated incidents, but rather, described as ‘daily occurrences’,⁶⁸⁸ and were experienced throughout CAR including in Bangui and the Lobaye prefecture. In this regard, and against this wealth of information, P-1839’s apparent hesitance to acknowledge that members of the civilian population had attacked the Muslim population,⁶⁸⁹ is at most, merely reflective of the limits of [REDACTED] account due to either an intentional or unintentional attempt to self-justify [REDACTED] position as a civilian who had voluntarily joined the RFACPP.

206. Despite the existence of crimes perpetrated by non-Muslim and Muslim local communities, this does not automatically confer the crisis with any religious connotation. Notwithstanding the OTP’s repeated efforts to mould P-2926’s evidence to fit its case theory, he maintained the position that this was not a ‘religious conflict’.⁶⁹⁰ This conclusion is supported by P-2012 who confirms that summarising the crisis to a conflict between ‘Muslims and Christians’ was a simplification which came from the fact that the journalists applied what they knew of other conflicts to the one in CAR because they didn’t know really well the country.’⁶⁹¹ Indeed, the evidence of CAR nationals is demonstrative of this phenomenon, with witnesses describing the fact that the conflict was akin to ‘brothers fighting’.⁶⁹² In other words, local communities were targeting one another for reasons other than religion, with ordinary domestic crimes being re-cast as serious violations of international humanitarian law by virtue of a fatal lack of understanding of the conflict or relevant actors.⁶⁹³

b) Motive for commission of crimes by local civilian population

207. The reasons for the commission of crimes by the local civilian communities were neither linear nor uniform.⁶⁹⁴ Witnesses routinely described the commission of crimes by local civilian communities as largely driven by opportunism,⁶⁹⁵ particularly in light of the overall poor economic situation in CAR⁶⁹⁶ -amongst communities that were all too familiar with historically

⁶⁸⁸ P-0884: T-057, p. 27, lines 3-6; [CAR-OTP-2120-0301](#), [00:21:00] / [CAR-D29-0006-0005](#), pp. 0005-0006.

⁶⁸⁹ P-1839: T-172, p. 47, lines 22-24.

⁶⁹⁰ P-2926: [CAR-OTP-2127-4289](#), p. 4315, para. 56.

⁶⁹¹ P-2012: T-026, p. 21, line 12 to p. 22, line 7; [CAR-D29-0002-0031](#), p. 0033. See also [CAR-OTP-2012-0505](#), [00:07:58] to [00:08:50] / [CAR-D29-0006-0799](#), p. 0803, line 17 to p. 0804, line 3.

⁶⁹² P-0889: [CAR-OTP-2027-2290-R02](#), para. 60.

⁶⁹³ See also [CAR-OTP-2012-0505](#), [00:07:58] to [00:08:50] / [CAR-D29-0006-0799](#), p. 0803, line 17 to p. 0804, line 3 (whereby a neighbour dispute was erroneously represented as a displacement allegation).

⁶⁹⁴ P-2012: T-026, p. 20, line 4 to p. 21, line 2 (in reference to [CAR-D29-0002-0031](#)).

⁶⁹⁵ P-1813: T-180, p. 27, lines 4-10; TCV-0952: T-251, p. 22, lines 11-16.

⁶⁹⁶ [CAR-OTP-2001-0835](#), pp. 0843, 0863; P-2012: T-025, p. 36, lines 3-14; D29-5015: T-254, p.54, lines 9-11.

violent coups and political dissatisfaction⁶⁹⁷ and whom sought to take advantage of the crisis.

208. Other witnesses describe the fact that the inter-community violence only intensified as Seleka atrocities increased, as reflected by the initial subdued reaction to the Seleka coup, itself a symptom of local communities' common dissatisfaction with the Bozizé administration.⁶⁹⁸ Indeed, although left unaddressed by the OTP case theory, the evidence at trial presented a clear picture whereby tensions amongst local communities rose as Seleka forces deliberately and indiscriminately targeted non-Muslim communities whilst intentionally providing protection and preferential treatment to Muslim communities.⁶⁹⁹

209. This situation was further compounded by the fact that Seleka forces included foreign mercenaries and received financial backing from neighbouring countries.⁷⁰⁰ This not only enhanced pre-existing fears concerning foreign intervention within CAR - as a landlocked country frequently used as a base by armed groups from neighbouring countries⁷⁰¹ but in more practical terms, meant that Seleka forces were very much reliant on local Muslim communities to navigate its 'administration' across villages and prefectures in CAR.⁷⁰² Put simply, non-Muslim communities were vigilant of – whether correctly or not - the fact that their Muslim neighbours were openly aligning with and assisting the very engineers of their suffering.⁷⁰³ Muslim neighbours were also receiving critical benefits from the Seleka for doing so. Several witnesses testified that certain Muslims were tasked with 'spying' or informing on their non-Muslim neighbours in return for economic benefits and/or protection from the local non-Muslim communities.⁷⁰⁴ As a result, the terms 'Seleka', 'Muslim', 'Arab' were often used interchangeably amongst the civilian population as were the terms 'Christian' and 'Anti-Balaka' to describe the perpetrator of crimes without distinction.⁷⁰⁵ In some cases, this was intentional as a means for

⁶⁹⁷ P-0888: T-120, p. 28, lines 21-23; P-0884: T-054, p. 40, line 13 to p. 41, line 8; TCV-0952: T-249, p. 6, lines 2-9.

⁶⁹⁸ P-0884: T-054, p. 39, line 15 to p. 40, line 5.

⁶⁹⁹ P-2084: [CAR-OTP-2094-0968-R02](#), para. 40.

⁷⁰⁰ P-0884: T-054, p. 42, lines 2-23; P-2926: [CAR-OTP-2127-4289](#), p. 4295, para. 14; P-2084: [CAR-OTP-2094-0968-R02](#), para. 26; P-2012: T-025, p. 27, lines 3-17; [CAR-OTP-2001-2564](#), p. 2566.

⁷⁰¹ [CAR-OTP-2001-0835](#), p. 0843, para. 19; P-2012: T-025, p. 27, lines 3-17; P-1521: T-084, p. 12, lines 24-28; P-0287: T-021, p. 61, line 26 to p. 62, line 5; TCV-0952: T-249, p. 7, lines 9-14, p. 8, lines 5-14; P-0808: [CAR-OTP-2025-0324-R05](#), para. 40; P-0992: [CAR-OTP-2110-0048-R05](#), para. 28; P-0446: [CAR-OTP-2059-1433-R01](#), p. 1443, lines 377-381.

⁷⁰² [CAR-OTP-2001-0835](#), p. 0843, para. 19.

⁷⁰³ P-0291: T-051, p. 74, line 27 to p. 75, line 9; P-0888: T-121, p. 10, line 13 to p. 11 line 12.

⁷⁰⁴ P-0888: T-121, p. 10, line 13 to p. 11 line 12; TCV-0952: T-252, p. 20, lines 20-28.

⁷⁰⁵ TCV-0952: T-252, p. 7, line 26 to p. 8, line 8; p. 20, lines 20-24; P-0446: T-098 p. 94, line 10 to p. 95, line 1; P-0487: T-203, p. 69, lines 17-25; P-0974: T-243, p. 38, line 14 to p. 39, line 12; [CAR-OTP-2058-0168-R01](#), para. 20; P-2084: T-234, p. 110, lines 4-17; P-0889: T-111, p. 5, lines 3-11, p. 6, lines 1-8. P-0291: T-051, p. 29, line 18 to p. 30, line 23; P-0446: T-098, p. 93, line 11 to p. 95, line 2.

⁷⁰⁵ E.g. P-1990: T-237, p. 27, line 19 to p. 28, line 1; P-1647: T-196, p. 5, lines 22-25; P-0487: T-204, p. 5, line 26 to p. 6, line 10; D29-5012: T-294, p. 76, line 6 to p. 77, line 1; P-1839: T-172, p. 28, line 19 to p. 29, line 5. See also video [CAR-OTP-2065-1348 / CAR-D29-0006-1312](#) in which Seleka members are using the word 'arab' to talk about another Seleka.

protection.⁷⁰⁶

210. This resulted in a ‘de facto segregation’ between Muslim and non-Muslim communities across villages and prefectures in CAR,⁷⁰⁷ as neighbouring communities retaliated against one another.⁷⁰⁸ As expressed by TCV-0952, there was uncontrollable anger amongst the local population in response to the violence perpetrated by Seleka forces,⁷⁰⁹ which intensified throughout the protracted period,⁷¹⁰ and led to physical attacks on Muslim civilians in ‘retaliation’ for Seleka abuses.⁷¹¹ Contrary to the OTP’s asserted position,⁷¹² tensions amongst local communities were of direct relevance to how the crisis was perceived by governmental authorities, armed groups and civilians alike.

c) Nebulous reliance on the (nebulous) term ‘anti-balaka’

211. The OTP’s downplaying of the role of civilians erroneously informs its position as to its indistinct classification of the term ‘anti-balaka’ to include ‘any sub-group or plurality of members/elements thereof, whether or not formally organised or constituted’.⁷¹³ This is an intentional choice in order to distort the fact that the reality of the CAR crisis is diametrically opposed to the one-sided narrative presented by the OTP, whereby the so-called ‘anti-balaka’ was a well-structured and organised movement that collectively, and intentionally, targeted the Muslim population.⁷¹⁴ The OTP’s blatant attempts to mould the evidence of P-2926 are evident during the drafting of his report and the OTP’s repeated efforts to ensure that the report concludes that the ‘anti-balaka’ was a structured organisation.⁷¹⁵ This ultimately resulted in the removal of P-2926’s initial conclusion that the ‘anti-balaka’ has ‘never been really structured’,⁷¹⁶ by the witness having sought the OTP’s approval to ensure the new phrasing was fit for purpose.⁷¹⁷

212. However, the OTP-manufactured classification belies the origins of the term ‘anti-balaka’, and its evolution and adoption by groups of which some would eventually merge to form the ‘Anti-Balaka North Coordination’. Per multiple witnesses, the formation of defence groups in local

⁷⁰⁶ P-0889: T-111, p. 4, lines 7-18. See also for example [CAR-OTP-2132-7226](#), p. 7230. See also P-1839: T-174 p. 86 lines 1-5.

⁷⁰⁷ P-2012: T-025, p. 20, line 19 to p. 22, line 23.

⁷⁰⁸ P-1193: T-126, p. 20, line 22 to p. 22, line 21; P-0487: T-203, p. 77, lines 8-21; P-1813: T-180, p. 26, lines 5-15; TCV-0952: T-252, p. 28, lines 7-13 (referring to [CAR-OTP-2074-0075](#) / [CAR-D29-0006-0001](#)), p. 28, lines 14-21; D29-5014: T-257, p. 16, line 18 to p. 18, line 17, p. 41, line 25 to p. 42, line 12.

⁷⁰⁹ TCV-0952: T-251, p. 7, lines 22-26; T-252, p. 20, lines 3-11, p. 22, lines 1-5.

⁷¹⁰ TCV-0952: T-252, p. 21, lines 1-4.

⁷¹¹ TCV-0952: T-252, p. 28, lines 14-21. See also T-252, p. 19, line 26 to p. 20, line 2.

⁷¹² ICC-01/14-01/18-723-Conf, paras. 135, 137.

⁷¹³ ICC-01/14-01/18-723-Conf, fns. 6-9.

⁷¹⁴ ICC-01/14-01/18-723-Conf, paras. 117-125.

⁷¹⁵ [CAR-D29-0005-0168](#), p. 0217, see comments PBA73, PBA75, PBA76; p. 0218, see comment PBA81.

⁷¹⁶ [CAR-D29-0005-0168](#), p. 4289, para. 62 which was struck through.

⁷¹⁷ [CAR-D29-0005-0168](#), p. 0217, see comment TV77. P-2926: T-032, p. 21 line 9 to p. 22, line 18.

communities was a traditional security measure seen across rural CAR.⁷¹⁸ Historically, these local defence groups, tasked with protecting villages and farmland across CAR,⁷¹⁹ comprised informal and unorganised groups largely composed of local hunters, farmers and youth and armed with little more than machetes.⁷²⁰ This practice is reflected across neighbouring countries in central Africa.⁷²¹

213. Following the security vacuum created by the Seleka in mid-2013,⁷²² it was therefore left to these traditional informal defence groups to protect their local communities from Seleka atrocities.⁷²³ Armed with machetes and facing automatic weapons, the local groups were quickly referred to by their communities as the ‘anti-balaka’ i.e. anti-AK bullets.⁷²⁴ It is for this reason that multiple witnesses describe the origins of the ‘anti-balaka’ movement as being ‘spontaneous’.⁷²⁵

214. Such evidence is not merely historical; it is relevant to the subsequent annexing of the ‘anti-balaka’ movement qua local grassroot resistance movement by a wider, strategic operation led and directed by members of the Anti-Balaka North Coordination. Indeed the crystallisation of the Anti-Balaka North Coordination was not only distinguishable – in terms of membership, organisation and operations - from the local defence groups but it also did not replace nor encompass informal civilian defence groups many of which continued to operate with total agency within their respective areas.⁷²⁶

215. The term ‘anti-balaka’ therefore continued to be used as a term to describe local unorganised civilian defence groups. This fast became a short-hand reference to all resistance groups by the local population, as further reflected in media reporting. This was irrespective of whether the group in question was organised or not, or whether it identified itself with the more formal ‘anti-balaka’ coordination efforts. This was also the case where individuals or mobs undertook opportunistic criminal sprees under the guise of the ‘anti-balaka’ umbrella despite the fact that such mobs were not local traditional defence groups and/or were not recognised, and were not aligned or associated in any way with formal ‘anti-balaka’ coordination efforts.⁷²⁷ This is further

⁷¹⁸ P-2012: T-025, p. 40, lines 21-24; P-2927: T-220, p. 14, lines 7-23, line 25 to p. 15, line 13, p. 17, line 15 to p. 18, line 3; P-0876: T-086, p. 14, line 13 to p. 14, line 1; [CAR-OTP-2001-3936](#), p. 3951.

⁷¹⁹ TCV-0952: T-252, p. 38, lines 2-10.

⁷²⁰ P-0889: T-109, p. 14, line 12 to p. 15, line 18; P-2012: T-025, p. 44, lines 16-25.

⁷²¹ P-2012: T-025, p. 44, lines 9-13; T-026, p. 23, lines 3-19.

⁷²² P-2012: [CAR-OTP-2001-2564](#), p. 2583.

⁷²³ P-2012: [CAR-OTP-2001-2564](#), pp. 2578, 2583; [CAR-OTP-2091-0202](#), p. 0215; TCV-0952: T-249, p. 37, lines 5-8.

⁷²⁴ P-1521: T-084, p. 15, lines 13-17; P-0966: [CAR-OTP-2031-0241-R03](#), para. 22.

⁷²⁵ E.g. P-0888: T-121, p. 7, lines 6-18; P-1521: T-082, p. 55, lines 8-22; TCV-0952: T-251, p. 28, lines 10-16; P-0876: T-086, p. 14, line 13 to p. 14, line 1.

⁷²⁶ [CAR-OTP-2001-2564](#), p. 2579; [CAR-OTP-2091-0202](#), p. 0215; TCV-0952: T-251, p. 28, line 4 to p. 29, line 2; P-0808: T-071, p. 56, line 25 to p. 57, line 3.

⁷²⁷ P-0808: T-071, p. 10, lines 9-14; [CAR-OTP-2084-0147](#).

emphasised by the fact that such groups would target Muslims and non-Muslims alike.⁷²⁸

216. The local population's shorthand use of the term 'anti-balaka' is clearly unsuitable for use in criminal proceedings. It does not reflect the specific nuances of the resistance movement in CAR as a whole and overlooks the commission of crimes by local civilians – as individuals or groups – which were far removed from the allegations presented by the OTP.

2. Mr. Yekatom was not 'anti-balaka'

a) Establishment of the *Révolution des Forces Armées Centrafricaines pour le Peuple* movement

217. It is the OTP's case that Mokom was responsible for organising and coordinating FACA members and the Presidential Guards as part of his role as the 'de facto Anti-Balaka coordinator'.⁷²⁹ It is alleged that this would have included Mr. Yekatom qua FACA member who per the OTP had 'fled with [Mokom] to Zongo after the 24 March 2013 Coup'.⁷³⁰ This allegation is based on no more than spurious evidence and unsubstantiated allegations that as Mokom and Mr. Yekatom were in the same location for a limited period, this must necessarily imply some sort of coordination on their part.

218. As set out below, Mr. Yekatom did not flee to Zongo *with* Mokom. Mr. Yekatom did not present himself, was not considered to be 'anti-balaka' and nor did Mr. Yekatom accept any instruction from, or coordinate with Mokom.⁷³¹

219. Indeed, the only accurate part of the OTP's allegation is that Mr. Yekatom was indeed a FACA member, having been formally recruited on 1 March 2004,⁷³² following in the footsteps of other military family members.⁷³³ Mr. Yekatom rose through the ranks and by 2013, held the position of Caporal-Chef within the Republican Guards following his appointment on 24 December 2011.⁷³⁴

220. Throughout the charged period, Mr. Yekatom, as a FACA, maintained his duties and respect for

⁷²⁸ P-0446: T-098, p. 4, lines 13-23; T-099, p. 58, lines 13-23; P-0808: [CAR-OTP-2093-0010-R02](#), para. 41; P-0808: T-069, p. 42, lines 11-17; T-072, p. 11, lines 2-6.

⁷²⁹ ICC-01/14-01/18-723-Conf, paras. 84-85.

⁷³⁰ ICC-01/14-01/18-723-Conf, para. 84.

⁷³¹ See also Defence's submission ICC-01/14-01/18-2194-Conf, paras. 21-25.

⁷³² [CAR-D29-0001-0142](#), p. 0142.

⁷³³ P-1786: [CAR-OTP-2058-0200-R03](#), para. 64 (a); P-2084: [CAR-OTP-2094-0968-R02](#), para. 50.

⁷³⁴ [CAR-D29-0001-0142](#), p. 0143; P-2027: T-40, p. 58, lines 8-22; [CAR-D29-0001-0081](#); [CAR-D29-0001-0087](#); [CAR-OTP-2065-0716](#), [00:47:24] / [CAR-OTP-2122-2292](#), p. 2294, lines 17-21; [CAR-OTP-2065-0396](#) [00:21:00] to [00:27:04] / [CAR-OTP-2122-2284](#), p. 2286 lines 9-14; [CAR-D29-0001-0142](#); [CAR-D29-0001-0560](#); [CAR-D29-0001-0146](#); *contra* [CAR-OTP-2091-0202](#), p. 0216.

the military oath to defend his nation to the ultimate sacrifice of his life.⁷³⁵ After the regime change on 24 March 2013, Mr. Yekatom had remained in his military position with the Republican Guards in Bangui and awaited orders to be given from the new Seleka authorities under the authority of General Abdel Kader.⁷³⁶ His military position was apolitical,⁷³⁷ and he stood ready to serve and protect the state irrespective of the governing authority at the time. Mr. Yekatom remained in this position for months, and it was only following his abduction and detention by Seleka forces that he was compelled to leave CAR.⁷³⁸ Like thousands of other CAR nationals, Mr. Yekatom travelled across the Oubangui river to arrive at Zongo, the nearest city across the border into the DRC. There is no evidence which mentions that he did so alongside Mokom,⁷³⁹ or that he was accompanied by any other person(s) who would subsequently form the ‘Anti-Balaka North Coordination’.⁷⁴⁰

221. The decision to leave CAR – albeit forced upon him – did not however alter Mr. Yekatom’s allegiance to serve and defend his nation. The evidence clearly depicts the fact that Mr. Yekatom had continued to verbally and visually present himself as a FACA Caporal-Chef both in private and in public throughout the charged period.⁷⁴¹

222. It is based on this ethos that the movement entitled the *Révolution des Forces Armées Centrafricaines pour le Peuple* was established to protect and liberate the people of CAR.⁷⁴² The RFACPP was formed by Mr. Yekatom, Habib Beina and Freddy Ouandjio all of whom had met in Zongo and had travelled back to CAR together.⁷⁴³ It was on their return in CAR that they formed the movement.⁷⁴⁴ Contrary to P-1339’s assertions at no point did Mr. Yekatom, Beina nor

⁷³⁵ P-0954: T-167, pages 9, lines 4-13. See also [CAR-D30-0007-0792](#); see also submissions made on this item in ICC-01/14-01/18-2561-Conf-AnxA, item #10; P-1647: T-195, p. 12, lines 14-23. See also [CAR-OTP-2065-0806](#) / [CAR-D29-0006-1324](#) (where RFACPP FACA element Salvador MANOUMANA states that he has mobilised pursuant to this duty). See also [CAR-OTP-2065-3180](#), [00:00:32] to [00:01:17] / [CAR-OTP-2122-7503](#), lines 17-26 (where Mr. Yekatom states: ‘L’État centrafricain a donné de l’argent pour nous former, on est fiers de défendre notre pays’).

⁷³⁶ P-1786: T-198, p. 5, lines 5-10.

⁷³⁷ P-0974: [CAR-OTP-2118-0813-R01](#), para, 15.

⁷³⁸ P-2027: T-040, p. 60, lines 10-16.

⁷³⁹ *Contra* ICC-01/14-01/18-723-Conf, para. 84 citing to [CAR-OTP-2079-0994](#) which does not explicitly refer to Mr. Yekatom.

⁷⁴⁰ While P-2269 claimed that Mr. Yekatom would have crossed to Zongo on the day of the Seleka coup with several individuals from the Anti-Balaka Northern Coordination, he is contradicted by video and testimonial evidence, see P-2269: [CAR-OTP-2111-0336-R01](#), para. 27. In this regard, the Defence recalls that this unique allegation should not be relied on against Mr. Yekatom see ICC-01/14-01/18-2127-Conf, paras. 25, 36.

⁷⁴¹ [CAR-OTP-2065-0396](#), [00:00:16] to [00:00:27] / [CAR-OTP-2122-2284](#), p. 2286, lines 9-14; P-1839: T-172, p. 82, lines 19-25, p. 83, lines 11-17, p. 85, lines 24-25, p. 86, line 25, p. 87, line 14 to p. 88, line 7, p. 90, line 26 to p. 91, line 5.

⁷⁴² [CAR-OTP-2065-0396](#), [00:00:34] to [00:00:54] / [CAR-OTP-2122-2284](#), p. 2286, lines 17-20; [CAR-OTP-2065-3692](#)/[CAR-OTP-2122-9676](#), lines 3-8; P-1839: T-172, p. 78, lines 2-8, p. 82, line 27 to p. 83, line 10, p. 83, lines 18-26.

⁷⁴³ P-0888: T-120, p. 22, line 27 to p. 23, line 6; P-1786: T-197, p. 62, lines 15-18.

⁷⁴⁴ P-0888: T-121, p. 14, line 24, to p. 15, line 2; P-1839: T-172, p. 80, lines 19- 25; P-0884: T-055, p. 78, lines 12-16, p. 78, lines 21-25, p. 82, lines 18-20. See also [CAR-OTP-2065-0716](#), [00:00:47] to [00:01:27] / [CAR-OTP-2122-2292](#), lines 19-29 (where Mr. Yekatom explains his kidnapping crossing to Zongo and creating his movement once back in CAR).

Ouandjio return to Zongo.⁷⁴⁵

223. Like Mr. Yekatom, both Beina and Ouandjio were former FACA members. Notably Ouandjio had served longer in the FACA than Mr. Yekatom and was a member of the Presidential Guard.⁷⁴⁶ As described by P-2027, the Republican Guards was a distinct battalion responsible for guarding prisons, in contrast to the more senior responsibilities of those in the Presidential Guard who answered directly to the President.⁷⁴⁷
224. The notion that the RFACPP was an extension of the alleged plans hatched and organised by Mokom has no merit. Numerous witnesses have testified to the fact that Mokom was upset by the fact that he held no authority with Mr. Yekatom, Beina or Ouandjio,⁷⁴⁸ and that it was on this basis that he orchestrated their arrests by the DRC authorities.⁷⁴⁹
225. Nor is there any credible evidence that Mr. Yekatom would have ‘regularly met’ with Mokom, as ex-libérateurs, in Zongo.⁷⁵⁰ For example, P-1339’s evidence that Mokom would have been in touch with Mr. Yekatom as they were ‘soldiers’, is pure speculation, based on the inaccurate understanding that Mokom was a FACA member, and in any case provides no further information as to the supposed substance of such discussions.⁷⁵¹
226. P-2232’s account that he would have seen Mr. Yekatom regularly meet with Mokom whilst in Zongo is pure conjecture,⁷⁵² and eventually retracted.⁷⁵³ Moreover, by his own account, P-2232 acknowledges that he had never seen Mr. Yekatom prior to this interaction,⁷⁵⁴ and based this conclusion on an entirely ambiguous exchange between Mr. Yekatom and Ngaikosset which the witness understood to be some sort of code without any basis or confirmation.⁷⁵⁵ P-2232’s entire account is also based on the witness’ own presupposition that Mr. Yekatom, Mokom and Ngaikosset would have known each other as liberators.⁷⁵⁶ This is of course factually incorrect, noting that Mokom was not a liberator,⁷⁵⁷ and an assumption which betrays P-2232’s inexperience

⁷⁴⁵ See also P-0888: T-121, p. 15, lines 9-12.

⁷⁴⁶ P-0487: T-203, p. 65, lines 13-18; P-2602: [CAR-OTP-2118-9764-R01](#), p. 9779; P-0888: T-120, p. 13, lines 23-24.

⁷⁴⁷ P-2027: T-040, p. 58, lines 8 to p. 59, line 6.

⁷⁴⁸ P-0888: T-121, p. 15, line 14 to p. 16, line 10, p. 30, lines 12-22; P-0889: [CAR-OTP-2122-7962-R02](#), p. 7971, lines 326-328; [CAR-OTP-2122-8112-R02](#), p. 8128, line 566 to p. 8129 line 578. See also ICC-01/14-01/18-1415-Conf, paras. 30-33; ICC-01/14-01/18-1665-Conf, paras. 20, 24; ICC-01/14-01/18-2194-Conf, paras. 23-25.

⁷⁴⁹ P-0888: T-121, p. 15, line 21 to p. 16, line 18; P-0884: T-055, p. 83, lines 5-10. Whilst it is P-2232’s evidence that Mr. Yekatom was arrested by DRC authorities as military personnel had to be observed upon entry, it is clear that other FACA personnel in the same circumstances were not arrested see P-2232: T-075, p. 37, line 28 to p. 38 line 19 c/P-1172: [CAR-OTP-2082-1058-R03](#), p. 1061, para. 17.

⁷⁵⁰ ICC-01/14-01/18-723-Conf, paras. 86, 356.

⁷⁵¹ P-1339: T-152, p. 50, lines 9-17.

⁷⁵² P-2232: T-075, p. 35, line 28 to p. 36, line 4, p. 38, lines 21-22.

⁷⁵³ P-2232: T-079, p. 15, lines 1-4, p. 36, lines 17-19.

⁷⁵⁴ P-2232: T-075, p. 34, lines 18-19.

⁷⁵⁵ P-2232: T-075, p. 34, lines 25-28, p. 37, lines 13-18.

⁷⁵⁶ P-2232: T-075, p. 37, lines 5-9; T-079, p. 10, line 19 to p. 11, line 3.

⁷⁵⁷ P-2027: T-040, p. 52, line 12 to p. 53, line 3; P-0487: T-203, p. 64, lines 16-17.

as an intelligence officer for Bozizé.⁷⁵⁸

227. Further still, P-2232's 'belief' that Mokom would have been in contact with Mr. Yekatom is yet another assumption by the witness, based on information relayed to him by Mokom.⁷⁵⁹ At no point does P-2232 assert that Mokom had confirmed that he had been in contact with Mr. Yekatom. Even when pressed, P-2232 is unable to explain precisely what detail Mokom would have known about Mr. Yekatom,⁷⁶⁰ and could only offer that Mokom had informed him that once Mr. Yekatom had crossed back over to CAR the two '*ne s'entendaient pas*'.⁷⁶¹

b) Shared objectives of the RFACPP Movement

228. At the outset, the RFACPP was a small movement which included Beina and Ouandjio.⁷⁶² It was formulated as a direct response to the deterioration of CAR's security following the Seleka takeover. In this regard, the members shared three core objectives: (a) the restoration of security and administrative infrastructures in CAR; (b) the protection of the civilian population; and (c) reinforcement of resources and security measures.

i) Restoration of security and administrative institutions in CAR

229. In the immediate aftermath of 24 March 2013, Seleka forces undertook deliberate efforts to target key institutions in Bangui. The primary target of this campaign was the FACA, seen by the Seleka 'enemy forces'⁷⁶³ that required dissolving and rebranding as the 'Republican Army'.⁷⁶⁴ This is despite the fact that many FACA had remained in their posts and awaited orders from the new regime, and irrespective of the fact that the Seleka now controlled the arms depositories.⁷⁶⁵ This targeted campaign by Seleka forces continued throughout the charged period.⁷⁶⁶

230. Numerous witnesses, including first-hand accounts of FACA members, have described the overwhelming nature of the Seleka's targeting campaign against the FACA establishing that its members were tortured and killed purely on the basis that they were FACA.⁷⁶⁷ Others describe the Seleka forces scouting for FACA to kill, identifying them purely by their uniforms,⁷⁶⁸ or

⁷⁵⁸ P-2232: T-075, p. 6, lines 4-8.

⁷⁵⁹ P-2232: T-075, p. 39, lines 8-17, p. 39, line 21 to p. 40, line 11.

⁷⁶⁰ P-2232: T-079, p. 36, line 17 to p. 37, line 2.

⁷⁶¹ P-2232: T-075, p. 40, lines 47.

⁷⁶² P-0888: T-123, p. 5, lines 9-14.

⁷⁶³ P-1647: T-195, p. 8, line 28 to p. 9, line 2; P-1521: T-082, p. 50, lines 2-7.

⁷⁶⁴ P-1647: T-195, p. 7, lines 12-14; P-0974: T-243, p. 37, line 27 to p. 38, line 13. See also [CAR-OTP-2065-3692](#) / [CAR-OTP-2122-9676](#), lines 3-8 (see particularly line 8: '*DJOTODIA est venu au pouvoir, il veut pas que l'armée nationale existe*').

⁷⁶⁵ P-0876: T-086, p. 13, lines 23-26.

⁷⁶⁶ P-1786: T-198, p. 20, line 19 to p. 21, line 2; P-1647: T-195, p. 52, lines 25-28.

⁷⁶⁷ P-1647: T-195, p. 7, lines 15-25; P-1786: T-198, p. 48, lines 5-12; P-0487: T-203, p. 69, line 26 to p. 70, line 1; P-1521: T-082, p. 49, line 20 to p. 50, line 1. See also [CAR-OTP-2084-1005](#), pp. 1006-1007; P-0876: T-086, p. 6, line 16 to p. 7, line 1.

⁷⁶⁸ P-1172: [CAR-OTP-2046-1003-R03](#), paras. 25-27; P-0974: T-243, p. 37, line 28 to p. 38, line 5.

hunting members down in their homes.⁷⁶⁹ Others have testified of strategic efforts by the Seleka forces to trap, abduct and detain FACA members,⁷⁷⁰ or relied on intelligence from FACA members who had joined Seleka forces.⁷⁷¹

231. Next on the Seleka's list was the targeting of the police and gendarmerie services,⁷⁷² as part of its global efforts to target all state security services and prevent any threat to its power. As with the targeting of the FACA, the destruction of law enforcement services was undertaken soon after the Seleka coup and was absolute in terms.⁷⁷³ P-1647's description of the total destruction of police and gendarmerie services in the Lobaye⁷⁷⁴ was replicated across CAR.⁷⁷⁵

232. The Seleka's destruction of state infrastructure went far beyond the security sector: they targeted judicial institutions,⁷⁷⁶ hospitals,⁷⁷⁷ municipal administrations and public archives⁷⁷⁸ – essentially ensuring that the population was vulnerable.

233. On the contrary, the RFACPP movement treated the restoration of the security forces as a priority. As described by P-1647, it was the RFACPP's primary obligation to first assist with the gendarmerie services,⁷⁷⁹ which allowed local law enforcement authorities to return to their posts, which in turn would allow the FACA to resume their activities and Mr. Yekatom to return to his official military posting.⁷⁸⁰

ii) Protection of the civilian population

234. The destruction of security and administrative services in CAR by the Seleka forces created a vicious cycle: the civilian population was left exposed and lost faith in state systems and international forces to protect them from Seleka abuses,⁷⁸¹ creating distrust amongst local communities which took up arms in self-defence and/or to exact revenge,⁷⁸² resulting in civil unrest across the civilian population in CAR as local communities could no longer exist in

⁷⁶⁹ P-0974: [CAR-OTP-2118-0813-R01](#), para. 30, [CAR-OTP-00001761-R01](#), para. 30; P-0974: T-243, p. 41, line 27 to p. 42, line 3; P-1647: [CAR-OTP-2050-0654-R02](#), para. 17; TCV-0952: T-252, p. 8, lines 9-13.

⁷⁷⁰ P-1647: [CAR-OTP-2050-0654-R02](#), para. 18; P-0487: T-201, p. 18, line 22 to p. 19, line 2. See also [CAR-OTP-2029-0139](#), p. 0139.

⁷⁷¹ P-0888: T-121, p. 10, lines 6-13.

⁷⁷² P-0801: T-036, p. 71, line 21 to p. 72, line 2; P-1647: T-195, p. 52, lines 25-28; P-1595: T-107, p. 13, lines 16-26; P-2353: [CAR-OTP-2100-0226-R03](#), para. 21; P-1823: [CAR-OTP-2063-0369-R02](#), paras. 19, 21.

⁷⁷³ P-2084: [CAR-OTP-2094-0968-R02](#), para. 29.

⁷⁷⁴ P-1647: T-195, p. 52, lines 25-28.

⁷⁷⁵ P-0291: T-051, p. 18, line 25 to p. 19, line 3, p. 20, lines 22-27; TCV-0952: T-251, p. 10, line 24 to p. 11, line 3.

⁷⁷⁶ P-0487: T-203, p. 69, lines 4-12; P-0801: T-036, p. 72, lines 21 to p. 73, line 1.

⁷⁷⁷ P-0974: [CAR-OTP-2118-0813-R01](#), para. 31; TCV-0952: T-252, p. 11, lines 14-20; D29-5012: T-293, p. 36, lines 2-17.

⁷⁷⁸ P-0801: T-036, p. 73, lines 2-14; P-0876: T-088, p. 9, lines 21-25. See also P-2841: T-030, p. 52, lines 7-11 regarding the collection of taxes on markets.

⁷⁷⁹ P-1647: T-195, p. 53, lines 1-4; T-1839: T-174, p. 28, lines 14-20.

⁷⁸⁰ P-0888: T-121, p. 19, line 28 to p. 20, line 5, p. 79, lines 17-18.

⁷⁸¹ P-0888: T-121, p. 18, line 7 to p. 19, line 19; P-0487: T-203, p. 76, lines 22-27. See also P-0876: T-086, p. 8, lines 23-26.

⁷⁸² P-0876: T-086, p. 10, lines 15-18.

harmony.⁷⁸³

235. As described by P-1839, when the witness joined the RFACPP, the movement's very rationale was to '*libérer les peuples centrafricains et baisser les armes à la fin, afin que chacun puisse reprendre ses activités [...] afin que notre pays retrouve la paix*'.⁷⁸⁴

236. The RFACPP's objective to protect the civilian population was without discrimination and was an extension of the oath taken by FACA members to defend the country without exception.⁷⁸⁵ Members were explicit in the fact that the RFACPP was designed to bring peace and security to all civilians, including Muslims. Mr. Yekatom is seen publicly advocating that the Muslims are brothers and that the targets of the movement are '*Djotodia and his mercenaries*'.⁷⁸⁶ This was not simply a message for the cameras; witnesses testified that Mr. Yekatom would often be heard espousing the same objective throughout the charged period.⁷⁸⁷ The same message was also shared and articulated by other RFACPP members including Ouandjio, Beina, and Keapex Junior, Beina's brother⁷⁸⁸ both in public statements and the training of elements. Indeed, it was based on these principles that other FACA members sought to join the RFACPP movement in order to save the nation from the Seleka and foreign mercenaries who were committing crimes and atrocities throughout CAR.⁷⁸⁹

237. The legitimacy of RFACPP's objective to protect the civilian population is further evidenced by its collaboration and coordination with international efforts,⁷⁹⁰ in contrast to the general mistrust – whether accurate or not - of internationals held across the CAR population due to their alleged assistance to Seleka forces.⁷⁹¹ Recognising that the movement's abilities were more limited in scope, the RFACPP ensured that it coordinated with internationals, including the Sangaris, MISCA and the various international NGOs, wherever possible and whenever requested to do so. It did so, however, as a partnership, recognising that international forces were just as limited in their ability to control the crisis.⁷⁹²

⁷⁸³ TCV-0952: T-251, p. 7, lines 22-26; T-252, p. 21, lines 1-10.

⁷⁸⁴ P-1839: T-172, p. 78, lines 2-14; T-170, p. 39, lines 13-18; See also [CAR-OTP-2065-0396](#) / [CAR-OTP-2122-2284](#).

⁷⁸⁵ P-1647: T-195, p. 12, lines 14-16; [CAR-OTP-2065-0846](#) / [CAR-OTP-2122-9437](#).

⁷⁸⁶ [CAR-OTP-2107-1191](#), [00:00:19] to [00:00:29] / [CAR-D29-0006-0933](#), p. 1, lines 10-12].

⁷⁸⁷ P-1647: T-196, p. 20, lines 10-16.

⁷⁸⁸ P-1647: T-196, p. 18, lines 8-13; P-0888: T-122, p. 15, line 24 to p. 16, line 12; [CAR-OTP-2065-0999](#) / [CAR-OTP-2107-1543](#); D29-5014: T-257, p. 23, line 21 to p.24, line 3; where the witness recalls having been cared for by a [Habib Beina] of Mr. Yekatom, which she recognises [CAR-OTP-2065-3897](#) at [00:00:06], see T-257, p. 23, line 11; and where she also specifies in a road accident, see T-257, p.24, lines 8-16.

⁷⁸⁹ P-1647: T-195, p. 12, lines 4-12.

⁷⁹⁰ [CAR-OTP-2065-4876](#); [CAR-OTP-2065-4268](#); see also submissions made on this item in ICC-01/14-01/18-2515-Conf-AnxB, pp. 24-25, item 61.

⁷⁹¹ P-1193: T-126, p. 15, line 26 to p. 16, line 12; P-2084: P-234, p. 97, line 18 to p. 98 line 8.

⁷⁹² TCV-0952: T-251, p. 18, line 23 to p. 19, line 28; T-252, p. 26, line 24 to p. 27, line 1 (citing [CAR-OTP-2120-0301](#) / [CAR-D29-0006-0005](#)).

iii) Reinforcement of resources and security measures

238. As noted above, the FACA and law enforcement authorities were primary targets for Seleka forces during the charged period. This meant that the objective of the RFACPP movement – namely to restore peace and security for all civilians – was a dangerous task which exposed the movement to Seleka attacks.⁷⁹³ The collectivity of the movement allowed members to maintain their security from the on-going threat from Seleka forces, particularly at base locations,⁷⁹⁴ and ensure that outposts remained guarded.⁷⁹⁵

239. It was also necessary for the movement to consolidate its resources and efforts as part of its response to the crisis. Indeed, this initiative aligned with the advice provided by the French military.⁷⁹⁶ This included, for example, the need to consolidate weapons within the movement noting the shortage of weapons and ammunition available to members,⁷⁹⁷ which was reduced to personal weapons and ammunition personally retrieved by FACA members,⁷⁹⁸ or from weapons abandoned by the Seleka at bases.⁷⁹⁹ The lack of available weapons was the result of the Seleka taking control of weapon storages, coupled with the arms embargo imposed on CAR by the UNSC in December 2013.⁸⁰⁰

240. In this regard, not all RFACPP members had firearms, which was predominantly limited to military personnel.⁸⁰¹ As described further below, the movement did not receive weapons from any other individual or group and there was no coordination to share weapons with ‘anti-balaka’ groups.⁸⁰² In fact, as confirmed by P-1786, the movement was targeted by ‘anti-balaka’ groups with weapons stolen from them.⁸⁰³

241. P-0954’s baseless claims that the RFACPP movement or individuals therein,⁸⁰⁴ including Mr. Yekatom, were extremely well-equipped is an anomaly in this regard and wholly contradicted by video footage captured of the movement.⁸⁰⁵ Nor is there any credible evidence that Mr. Yekatom

⁷⁹³ P-1647: T-195, p. 15, lines 5-7; [CAR-OTP-2065-3977](#) / [CAR-OTP-2127-3686](#).

⁷⁹⁴ P-1647: T-195, p. 31, lines 8-20.

⁷⁹⁵ [CAR-OTP-2065-4849](#) / [CAR-OTP-2118-5685](#).

⁷⁹⁶ [CAR-OTP-2065-4849](#) / [CAR-OTP-2118-5685](#).

⁷⁹⁷ P-0487: T-206, p. 42, lines 18-28; P-1786: T-197, p. 32, lines 18-20; P-0954: T-168, p. 26, lines 1-15.

⁷⁹⁸ P-1647: T-195, p. 21, line 27 to p. 22, line 4.

⁷⁹⁹ P-1647: [CAR-OTP-2050-0654-R02](#), para. 81; P-0888: T-121, p. 82, lines 8-21.

⁸⁰⁰ P-2084: T-234, p. 89, line 28 to p. 90, line 18; P-2084: [CAR-OTP-2094-0968-R02](#), paras. 27-28.

⁸⁰¹ P-1839: T-173, p. 38, lines 15-17, p. 64, lines 26-28.

⁸⁰² P-1786: [CAR-OTP-2058-0200-R03](#), para. 24; P-1786: T-197, p. 75, lines 15-16.

⁸⁰³ P-1786: T-198, p. 12, lines 19-23; [CAR-OTP-2065-4849](#), [00:00:00] to [00:00:25] / [CAR-OTP-2118-5685](#), p. 5687, lines 5-15.

⁸⁰⁴ P-0954: T-168, p. 26, line 22 to p. 27, line 17.

⁸⁰⁵ [CAR-OTP-2065-0396](#), [00:02:02] to [00:02:15] / [CAR-OTP-2122-2284](#), p. 2284, lines 42-43; [CAR-OTP-2065-4849](#), [00:01:30] to [00:02:10] / [CAR-OTP-2118-5685](#), p. 5688, lines 51-54; [CAR-OTP-2065-4851](#) / [CAR-OTP-2127-7161](#), p. 7163, lines 3-6.

would have procured the scale of weapons which was implied by P-0954.

242. The operation of the RFACPP movement also allowed it to share financial resources which would be allocated across the movement for various needs relating to *inter alia* food, fuel, medical care and transportation.⁸⁰⁶ The movement was heavily dependent on charity from the local population in this regard both whilst at Yamwara school and along the axis, with additional funding collected at established checkpoints from the local community as a whole, irrespective of religious affiliation.⁸⁰⁷ The resources available however were minimal, with members complaining of the living conditions both at Yamwara and along the axis.⁸⁰⁸ In this regard, whilst it was P-1839's account that Mr. Yekatom would have pillaged along the axis, the only example provided when pressed by OTP counsel, concerned two vehicles,⁸⁰⁹ which although unknown to the witness, were retrieved from Seleka forces,⁸¹⁰ and not the civilian population.

c) RFACPP movement was distinct from the 'anti-balaka'

243. At the core of the OTP case is the premise that Mr. Yekatom was part of a sub-group within the 'anti-balaka'. As previously noted, the OTP makes no distinction as to scope of the term 'anti-balaka' which it considers to be one unified group. The reality however was that the RFACPP was distinct from the 'anti-balaka' groups (formalised or otherwise). P-1839 in particular, testified to the fact that Mr. Yekatom made a clear distinction between the RFACPP and the 'anti-balaka', that he did not consider himself 'anti-balaka' and moreover, did not want to use the term 'anti-balaka'.⁸¹¹ P-1839's initial statement that the group was subsequently transformed into the 'anti-balaka',⁸¹² was addressed further as the witness confirmed that this was only in reference to the fact that everyone else called the group 'anti-balaka',⁸¹³ but that the RFACPP remained as a distinct entity from the 'anti-balaka' whilst stationed at Yamwara school and along the PK-9-Mbaïki Axis.⁸¹⁴ In other words at no point did Mr. Yekatom or other RFACPP members consider themselves to be subsumed within either the Anti-Balaka North Coordination or the Anti-Balaka South Coordination during the charged period.

⁸⁰⁶ P-1647: [CAR-OTP-2050-0654-R02](#), paras. 79-80. See also a video depicting the purchase of food in [CAR-OTP-2065-1143 / CAR-D29-0006-1441](#) (with Defence's submission ICC-01/14-01/18-2515-Conf-AnxB, p. 1, item 1).

⁸⁰⁷ P-1647: [CAR-OTP-2050-0654-R02](#), para. 32; [CAR-OTP-2065-0516](#), [00:01:11] to [00:01:55] / [CAR-OTP-2135-4411](#), p. 4413, line 27 to p. 4414, line 39.

⁸⁰⁸ P-1839: T-171, p. 21, lines 12-27.

⁸⁰⁹ P-1839: T-171, p. 18, line 19 to p. 20, line 21.

⁸¹⁰ P-1786: [CAR-OTP-2058-0200-R03](#), para. 36.

⁸¹¹ P-1839: T-172, p. 82, line 19 to p. 83, line 10; P-0888: T-121, p. 83, line 8 to p. 84, line 3. See also [CAR-OTP-2065-0396](#), [00:01:45] to [00:02:02] / [CAR-OTP-2122-2284](#), p. 2287, lines 36-39; [CAR-OTP-2065-3180](#), [00:01:48] to [00:02:00] / [CAR-OTP-2122-7503](#), p. 7504, line 35 to p. 7505, line 37.

⁸¹² P-1839: T-172, p. 83, lines 1-10.

⁸¹³ P-1839: T-172, p. 85, line 12-25.

⁸¹⁴ P-1839: T-172, p. 86, line 19 to p. 88, line 7.

244. This position is further confirmed by documentary evidence, including contemporaneous recordings of Mr. Yekatom and other RFACPP members, and/or associates.⁸¹⁵ As described by P-0888, RFACPP members refused to be called ‘anti-balaka’ not least because they considered this to be a ‘group created by Mokom’.⁸¹⁶ In turn, the local population were reassured by RFACPP’s distinction, with P-2354 describing an event in which he, as a Muslim trader, was reassured by Mr. Yekatom directly that he was not ‘anti-balaka’ and that as a FACA he was committed to fighting the Seleka urging the Muslim traders to stay in peace and in calm.⁸¹⁷

i) RFACPP was not aligned with the Anti-Balaka North Coordination

245. It is the OTP’s case that Mr. Yekatom fell within the *de facto* coordination of the Anti-Balaka for the purposes of the 5th December operation before formalising his position within the National Coordination in January 2014.⁸¹⁸ As noted above, however, this position not only misrepresents the ‘anti-balaka’ resistance as a whole – noting its involvement of local civilian groups – but further: (a) overlooks the fact that the National Coordination did not crystallise until June 2014, (b) prior to June 2014, there was a clear divide amongst the reported ‘Anti-Balaka North Coordination’ and ‘Anti-Balaka South Coordination’, and (c) even within each of the two coordinations, there was no clear, organised or stable alliance.

246. Despite the OTP’s efforts however, there is no credible evidence that the RFACPP movement, or specifically Mr. Yekatom, was ever part of the Anti-Balaka North Coordination. In fact the evidence overwhelmingly establishes the very opposite – namely that Mr. Yekatom was never aligned with factions of the Anti-Balaka North Coordination as supported by the fact that the RFACPP movement, *inter alia*: (i) did not share the same objectives, (ii) did not receive resources, and (iii) did not coordinate nor report back to the Anti-Balaka North Coordination.

ii) RFACPP did not share the same objective as the Anti-Balaka North Coordination

247. As set out above, one of the primary objectives of the RFACPP was to restore peace and security to CAR. In particular, the evidence shows that at no point did any of the RFACPP members seek the return of Bozizé to power,⁸¹⁹ with Mr. Yekatom - visibly upset by the notion - clearly stating

⁸¹⁵ [CAR-OTP-2094-7618](#), [00:06:03] to [00:06:15] / [CAR-OTP-2118-4260](#), p. 4263, lines 80-82.

⁸¹⁶ P-0888: T-121, p. 83, line 20, to p. 84, line 3.

⁸¹⁷ P-2354: T-210, p. 20, lines 15-28.

⁸¹⁸ ICC-01/14-01/18-723-Conf, para. 324.

⁸¹⁹ P-0884: T-057, p. 68 lines 12-22; P-0876: T-086, p. 57, line 28 to p. 58, line 7.

to the media that he was opposed to such a scenario.⁸²⁰

248. The RFACPP's stance was antithetical to the core objective of the Anti-Balaka North Coordination,⁸²¹ which first and foremost sought the return of constitutional power i.e. to return Bozizé to power. As explained by P-0876, this was a non-negotiable issue for the various factions within the Anti-Balaka North Coordination,⁸²² and ultimately led to establishment of two distinct coordinations i.e. factions aligned for the sole purpose of returning Bozizé to power (Anti-Balaka North Coordination) and factions aligned for the peaceful removal of Djotodia (Anti-Balaka South Coordination).⁸²³ This distinction was evident by at least 31 December 2013 (following Ngremangou's shift away from peaceful dialogue to remove Djotodia, to support of Bozizé's return)⁸²⁴ and circulated in the media by at least 15 January 2014.⁸²⁵

249. As an apolitical movement, the RFACPP did not join either coordination, however, as attested by P-0876 it was supportive of the Anti-Balaka South Coordination for the peaceful restoration of government in CAR.⁸²⁶ This resulted in animosity between the Anti-Balaka North Coordination and supporters of the initiatives led by the Anti-Balaka South Coordination, which was in the minority.⁸²⁷ As described by P-0876, this animosity materialised as threats from the Anti-Balaka North Coordination who considered supporters of the Anti-Balaka South Coordination – including RFACPP members - to be traitors,⁸²⁸ whilst at the same time, perceived by Seleka forces to be 'anti-balaka'.⁸²⁹ As described by P-0876 and P-0954, the hostility directed towards the Anti-Balaka South Coordination was so severe that international mediation became necessary to ensure their participation in meetings organized by the transitional government.⁸³⁰

250. Nor is there any evidence that the RFACPP would have aligned itself with the Anti-Balaka North Coordination following Djotodia's resignation on 10 January 2014, particularly as factions of the Anti-Balaka North Coordination continued to advocate for the return of Bozizé.⁸³¹ Moreover, in contrast to the Anti-Balaka North Coordination, the RFACPP did not have any political aims and

⁸²⁰ [CAR-OTP-2065-0396](#) [00:02:02] to [00:02:15] / [CAR-OTP-2122-2284](#), p. 2287, lines 40-45; [CAR-OTP-2065-3700](#), [00:00:00] to [00:00:09] / [CAR-OTP-2130-1143](#), p. 1145, lines 3-4. See also [CAR-OTP-2065-0400](#), [00:00:43] to [00:00:50] / [CAR-OTP-2122-2288](#), p. 2290, lines 17-18 in which Mr. Yekatom explains they are apolitical. See also an element explaining that he is not a partisan of Bozize [CAR-OTP-2065-2316](#), [00:01:08] to [00:02:03] / [CAR-D29-0006-1456](#), p. 1457, lines 11-20 (see also submissions in ICC-01/14-01/18-2515-Conf-AnxB, p. 22, item 55).

⁸²¹ P-0876: T-086, p. 52, lines 5-20.

⁸²² [CAR-OTP-2046-0249](#), p. 0260.

⁸²³ P-0876: T-086, p. 62, line 26 to p. 63, line 13, p. 64, lines 11-19. See also [CAR-OTP-2001-3811](#), p. 3817.

⁸²⁴ P-0954: T-167, p. 75, lines 11-19.

⁸²⁵ P-0876: T-086, p. 83, lines 9-16.

⁸²⁶ P-0876: T-086, p. 91, lines 12-14.

⁸²⁷ P-0876: T-086, p. 73, lines 13-22.

⁸²⁸ P-0876: [CAR-OTP-2046-0249-R01](#), p. 0264, lines 612-615; P-0884: T-057, p. 72, lines 15-19.

⁸²⁹ P-0876: T-086, p. 76, lines 2-9.

⁸³⁰ P-0876: T-086, p. 76, lines 5-9; P-0954: T-167, p. 83, lines 14-21.

⁸³¹ P-0876: T-086, p. 76, lines 2-9; P-0889: [CAR-OTP-2122-8112-R02](#), p. 8118, lines 186-189.

did not push for members to hold political positions within the transitional government.⁸³² This is further emphasised by the fact that the RFACPP did not partake in the various meetings held by the Anti-Balaka North Coordination,⁸³³ nor is there any evidence that the RFACPP or Mr. Yekatom's name appear on any of the documents or press communiques issued by the coordination throughout January to April 2014.⁸³⁴ Indeed, as attested by P-0884, members of the Anti-Balaka North Coordination recognised that the RFACPP movement had a different trajectory which was not aligned with their objectives,⁸³⁵ whilst others in the coordination outright refused to recognise the RFACPP.⁸³⁶ On this basis, and, as described by P-0876, it would have been surprising to see the RFACPP's signature on any of the Anti-Balaka North Coordination documents or communiqués prior to June 2014.⁸³⁷ In this regard, the OTP has failed to establish that Mr. Yekatom was even aware of the objectives of the Anti-Balaka North Coordination let alone that he was either dependent on the coordination⁸³⁸ or a key character therein during the charged period.

iii) RFACPP did not report back to the Anti-Balaka North Coordination

251. Having failed to establish that the RFACPP shared any core objectives with the Anti-Balaka North Coordination, the OTP does not provide any logical or cogent case as to why the RFACPP would either agree or even need to report back to the Anti-Balaka North Coordination. This is further compounded by the fact that the OTP's case centres on the alleged reporting from the RFACPP to the Anti-Balaka North Coordination via Mokom. This is flawed in several respects.

252. First, as dealt with in this brief, it was well established that RFACPP members, including Mr. Yekatom did not hold Mokom in high regard, particularly as Mokom was considered to be complicit in the arrests of Mr. Yekatom, Beina and Ouandjio by DRC authorities.⁸³⁹ The animosity between Mokom and Mr. Yekatom was widely known, with numerous witnesses

⁸³² [CAR-OTP-2087-9028](#); TCV-0952: T-249, p. 23, line 25 to p. 24, line 10; T-251, p. 41, lines 4-7.

⁸³³ P-0992: T-092, p. 51, line 24 to p. 52, line 9; P-0992: [CAR-OTP-2128-0288-R02](#), paras. 118-120; P-0889: [CAR-OTP-2027-2290-R02](#), paras 66-71 (meeting at Azimuth hotel); [CAR-OTP-2122-7919-R01](#), p. 7937, lines 632-635 (P-0889 affirms that Mr. Yekatom was not present during the meeting held at Azimuth Hotel).

⁸³⁴ P-0884: T-055, p. 77, lines 19-21; T-056, p. 12, lines 9-12; T-057, p. 13, lines 24-28. See also [CAR-OTP-2060-0596](#); [CAR-OTP-2084-0049](#); [CAR-OTP-2060-0590](#); [CAR-OTP-2025-0380](#); [CAR-OTP-2025-0380](#); P-0808: T-072, p. 49, line 16 to p. 51, line 3, p. 53, line 1 to p. 54, line 16, referring to [CAR-OTP-2006-1210](#) and [CAR-OTP-2080-2250](#). See also P-0876: T-086, p. 81, line 10 to p. 82, line 4, p. 80, line 23 to p. 81, line 6, with reference to [CAR-OTP-2084-0049](#). See also [CAR-OTP-2060-0596](#), where P-0876 and Konate are denounced by the Ngaïssona group.

⁸³⁵ P-0884: T-057, p. 13, line 18-28.

⁸³⁶ P-1839: T-171, p. 76, lines 24-26.

⁸³⁷ P-0876: T-086, p. 81, line 16 to p. 82, line 4; [CAR-OTP-2046-0267-R01](#), p. 0278. See also P-0487: T-204, p. 79, line 20 to p. 80, line 7.

⁸³⁸ *Contra* P-2328: T-047, p. 74, line 25 to p. 75, line 9.

⁸³⁹ See also P-0888: T-120, p. 21, lines 4-10; T-121, p. 15, lines 14 to p. 16, line 18; P-0884: T-055, p. 83, lines 5-10.

acknowledging that the two were in disagreement,⁸⁴⁰ and were by no means aligned.⁸⁴¹ The notion that Mokom would receive reports back is also undermined by evidence which establishes that Mokom was merely a self-proclaimed coordinator, and was not considered by FACA members to have any authority.⁸⁴² In this regard, P-0487's false claim that Mr. Yekatom would have respected orders from Mr. Ngaïssona,⁸⁴³ is similarly deficient noting that: (i) the witness also stated that Mr. Yekatom changed his position in relation to Mr. Ngaïssona following the Pissmiss meeting on 15 May 2014,⁸⁴⁴ (ii) the witness does not claim to have seen Mr. Yekatom take orders from Mr. Ngaïssona,⁸⁴⁵ and (iii) the OTP has not established any telephone contact between Mr. Ngaïssona and Mr. Yekatom, nor does the evidence suggest that Mr. Yekatom attended any meetings upon Mr. Ngaïssona's request.

253. Second, the OTP has not established any direct evidence which demonstrates a sufficient frequency or pattern of telephone calls between Mr. Yekatom – or indeed any other RFACPP member – and Mokom for any duration in the charged period.⁸⁴⁶ This is of course despite the fact that Mokom is described as being constantly on his telephone.⁸⁴⁷ There is also no other testimonial evidence which would reliably and explicitly demonstrate that Mr. Yekatom or other RFACPP members would have reported back to Mokom either remotely or in person,⁸⁴⁸ or indeed through others. For example, it is P-0954's evidence that he knew Mr. Yekatom had contacts with the Anti-Balaka North Coordination as Mr. Yekatom had contacts with Rodrigue Ngaïbona and a soldier named Mazimbele and that '*ça a été dit à la bouche de tout le monde*'.⁸⁴⁹ P-0954's testimony in this regard is pure assumption. Indeed, P-0954's entire account in relation to the RFACPP's coordination in relation to the 5th December Operation is unreliable and not based on any direct evidence. For example, P-0954 states that Mr. Yekatom would have received instructions from Ngremangou to attack Camp Kassai on the 5th December,⁸⁵⁰ and that P-0954 was informed of the

⁸⁴⁰ P-2232: T-079, p. 36, line 17 to p. 37, line 2; P-0884: T-055, p. 83, lines 8-10.

⁸⁴¹ P-0876: T-086, p. 43, lines 21-28; P-0888: T-121, p. 15, line 14 to p. 16, line 10; p. 30, lines 12-22; P-0889: [CAR-OTP-2122-7962-R02](#), p. 7971, lines 326-328; [CAR-OTP-2122-8112-R02](#), p. 8128, lines 566-572. See also ICC-01/14-01/18-1415-Conf, paras. 30-33; ICC-01/14-01/18-1665-Conf, paras. 20, 24.

⁸⁴² P-0889: T-111, p. 19, line 16 to p. 20, line 27. See also P-1193: T-124, p. 81, line 25 to p. 82, line 2, p. 83, lines 4-5; T-125, p. 14, lines 28 to p. 15, line 1; 10-13, 18-21.

⁸⁴³ P-0487: T-203, p. 4, lines 11-22; p. 5, lines 7-17.

⁸⁴⁴ P-0487: T-204, p. 79, line 27 to p. 80, line 7.

⁸⁴⁵ P-0487: T-203, p. 4, lines 14-15.

⁸⁴⁶ *Contra* ICC-01/14-01/18-723-Conf, para. 126. See also P-0889: [CAR-OTP-2122-8002-R02](#), p. 8033, lines 1140-1142; [CAR-OTP-2122-7684-R02](#), p. 7692, lines 277-278.

⁸⁴⁷ *Contra* P-0889: [CAR-OTP-2027-2290-R02](#), para. 32; P-0889: [CAR-OTP-2122-7962-R02](#), pp. 7970-7971; P-2232: T-078, p. 22, lines 14-25.

⁸⁴⁸ See also P-0889: [CAR-OTP-2122-8002-R02](#), pp. 8032-8033, lines 1140-1142; *contra* P-2232: T-075, p. 42, lines 11-16; P-1786: T-197, p. 60, line 26 to p. 61, line 14; P-1521: T-081, p. 69, lines 23-28.

⁸⁴⁹ P-0954: T-166, p. 28, lines 19-23, p. 29, lines 2-5, p. 37, lines 5-10.

⁸⁵⁰ P-0954: [CAR-OTP-2048-0171-R03](#), para. 34; T-166, p. 25, line 28 to p. 26, line 7.

RFACPP's movements on the 5th December during a call with Mr. Yekatom that day which was initiated by P-0954.⁸⁵¹ On further questioning, and noting that there is no call between P-0954 and Mr. Yekatom on that day,⁸⁵² the witness walks back his response and subsequently states that Mr. Yekatom would not have mentioned any coordination with Mokom, Mr. Ngaissona or Bozizé and nor did Mr. Yekatom apparently specify who was leading the northern groups that participated during operations on the 5th December.⁸⁵³ P-0954's entire account with regard to the RFACPP and Mr. Yekatom's movements on the 5th December appears to be motivated by his animosity towards Mr. Yekatom on account of the fact that [REDACTED],⁸⁵⁴ which was aggravated by the fact that he considered [REDACTED].⁸⁵⁵

254. Third, it is the OTP's case that the Anti-Balaka North Coordination would have organised for ComZones to provide Mokom with reports and this would have been agreed to in a meeting on 6 February 2014, – a meeting which the RFACPP was not in attendance.⁸⁵⁶

iv) Anti-Balaka North Coordination did not provide resources to the RFACPP

255. In order to support its narrative that Mr. Yekatom was within the hierarchal structure of the 'anti-balaka', the OTP asserts that Mr. Yekatom would have received resources, including weapons and funds, from the Anti-Balaka North Coordination via Mokom.⁸⁵⁷

256. First, as described above, other than establishing that Mr. Yekatom and Mokom were in Zongo at the same time, the OTP has not established that Mr. Yekatom received any assistance from Mokom, financially or otherwise. Indeed, the evidence clearly establishes that Mr. Yekatom, Beina and Ouandjio actively disassociated themselves from Mokom's attempt to secure their coordination which resulted in Mokom orchestrating their detention by DRC authorities.

257. Nor has the OTP established that the RFACPP received any weapons organised by Mokom ahead of the 5th December Operation or thereafter.⁸⁵⁸ As detailed above, P-1339's alleged claim that the

⁸⁵¹ P-0954: T-167, p. 49, lines 17-28. See also P-0954: T-168, p. 52, line 24 to p. 53, line 3.

⁸⁵² P-0954: T-168, p. 52, lines 7-12. See also [CAR-D29-0004-3911](#).

⁸⁵³ P-0954: T-166, p. 37, lines 14-21.

⁸⁵⁴ P-0954: [CAR-OTP-2048-0171-R03](#), para. 34; P-0954: T-167, p. 47, lines 14-18. On the animosity of P-0954, see also P-0954: [CAR-OTP-2048-0171-R03](#), paras. 81, 91; T-168 p. 85, lines 17-18 where he describes Mr. Yekatom as '*c'est un demi-Dieu*'. See also P-0954: T-166, p. 68, lines 2-9 where P-0954 described the checkpoint on the other side of the bridge at PK9, near Pissmiss as '*poste de démons*'; [CAR-OTP-2048-0171-R03](#), para. 93 where P-0954 adds that 'many bad things happened, many people were killed'; T-166, p. 92, line 5, where P-0954 further added that '*si tu essaies de rester, tu vas trouver la mort*', T-168 p. 85, lines 17-18 where P-0954 adds that '*pour passer ce checkpoint, vraiment, il faut [que] Dieu soit avec toi*'.⁸⁵⁴

⁸⁵⁵ P-0954: T-166, p. 5, line 23; P-1858: [CAR-OTP-2063-0050-R04](#), para. 46; see also [CAR-OTP-2065-4902](#), [00:00:00] to [00:00:51] / [CAR-OTP-2130-1152](#), p. 1154, lines 3-14 (where RFACPP members including Beina express their anger towards Ngremangou for his and other FACA senior officers' lack of support for their movement while they were in the bush, including when they left for the 5th December Operation).

⁸⁵⁶ ICC-01/14-01/18-723-Conf, para. 126. See also P-2232: T-076, p. 51, line 22 to p. 53, line 13 cf. P-0306: p. 58, lines 22-24.

⁸⁵⁷ ICC-01/14-01/18-723-Conf, paras. 75, 85, 126, 141, 312, 393.

⁸⁵⁸ See also P-2232: T-076, p. 48, line 23 to p. 49, line 9.

movement would have travelled to Zongo to retrieve weapons is entirely unfounded.⁸⁵⁹ Similarly, the claim that the RFACPP would have received weapons from Mokom via Beorofei is equally baseless. For example, during P-0954's in-court testimony he stated that he was allegedly told by Beorofei that he was the '*financier de Bozizé*',⁸⁶⁰ and that he [REDACTED].⁸⁶¹ According to the witness, Beorofei '*était tout proche de Yekatom*',⁸⁶² with the inference being that weapons, financed by Bozizé would have been supplied to the RFACPP. At no point during his examination does the witness confirm that he would have seen Beorofei provide weapons to the RFACPP and nor does the witness state that Beorofei would have confirmed the same. Indeed, even during P-0954's embellished account - which was only provided during examination by the Defence – the witness conceded that no weapons were purchased by Beorofei.⁸⁶³ Despite the witness' apparent efforts to further implicate Mr. Yekatom in his re-telling of the alleged attempt to purchase weapons whilst in court,⁸⁶⁴ it is noteworthy that the witness made no such allegations in his initial statement even though he appeared comfortable falsely implicating Mr. Yekatom in other baseless allegations at the time,⁸⁶⁵ and further, gave contradictory details as to when the attempted deal took place.⁸⁶⁶ Tellingly, P-0954's account is not independently corroborated, noting that he was the source of the same allegation as raised by P-0487,⁸⁶⁷ and is based on the erroneous position that Beorofei was close to Mr. Yekatom.

258. The weak claim that the RFACPP would have received weapons from Mokom or the Anti-Balaka North Coordination by virtue of its involvement in the 5th December Operation is contradicted by the reality that there was a shortage of weapons and ammunition across the RFACPP. This is depicted in video material captured days after the 5th December Operation,⁸⁶⁸ as well as testimonial evidence confirming that the movement did not receive any shipment of weapons whilst at Yamwara school or along the axis.⁸⁶⁹

259. Second, there is no reliable evidence which would establish that the RFACPP would have received any large sums of money prior to the 5th December Operation. For example, whilst it

⁸⁵⁹ See Section II.C.b.vi).

⁸⁶⁰ P-0954: T-166, p. 34, lines 13-14.

⁸⁶¹ P-0954: T-166, p. 36, lines 11-12.

⁸⁶² P-0954: T-166, p. 33, lines 14-15.

⁸⁶³ P-0954: T-166, p. 20, line 23.

⁸⁶⁴ P-0954: T-166, p. 34, lines 18-26.

⁸⁶⁵ P-0954: [CAR-OTP-2048-0171-R03](#), para. 99.

⁸⁶⁶ P-0954: T-168, p. 23, lines 14-16; p. 25, lines 3-7; [CAR-OTP-2048-0171-R03](#), para. 99.

⁸⁶⁷ P-0487: T-202, p. 33, lines 17-21, p. 59, line 23 to p. 60, line 5.

⁸⁶⁸ [CAR-OTP-2065-4849](#), [00:01:30] to [00:02:10] / [CAR-OTP-2118-5685](#), p. 5688, lines 51-54; [CAR-OTP-2065-4851](#) / [CAR-OTP-2127-7161](#), p. 7163, lines 3-6; [CAR-OTP-2065-4605](#) / [CAR-D29-0006-1321](#).

⁸⁶⁹ P-1786: [CAR-OTP-2058-0200-R03](#), para. 24.

was P-0487's testimony that he would have [REDACTED]⁸⁷⁰ [REDACTED] – notably [REDACTED]⁸⁷¹ -which he would have given to Mr. Yekatom,⁸⁷² this is contradicted by P-0954 who asserts that the sum of money was provided [REDACTED].⁸⁷³ Moreover, P-0487's account that he would have provided this money to Mr. Yekatom prior to 7 November 2013⁸⁷⁴ is inconsistent with his account that he did not join Mr. Yekatom until after the 5th December Operation.⁸⁷⁵

260. Similarly, it is the OTP's case that Mokom would have visited Mr. Yekatom on 7 February 2014, that is the day after a meeting was held by the Anti-Balaka North Coordination and in which the OTP alleges that '[c]omzones were also promised money to encourage their continuation of the 'fight'.⁸⁷⁶ As set out above, the RFACPP: (i) did not seek the continuation of the conflict and actively worked towards reconciliation and peace;⁸⁷⁷ (ii) was excluded from meetings held amongst the Anti-Balaka North Coordination and was not attending the 6 February 2014 meeting; and (iii) did not align or coordinate with Mokom. Nor is there any evidence that the RFACPP received money from the Anti-Balaka North Coordination following the promise made on 6 February 2014, noting that whilst P-0884 states that he would have seen Mr. Ngaïssona distribute money to Comzones after Comzone meetings, he does not specify that he would have seen Mr. Yekatom receive the same and if so, the amount or purpose of the money.⁸⁷⁸

- v) RFACPP's alignment with the Anti-Balaka South Coordination did not amount to support or coordination with the 'anti-balaka'

261. As set out in Section IV.B.1, the RFACPP's coordination with Ngremangou during the 5th December Operation was limited both in scope of: (i) the coordination vis-à-vis the call for duty by a military superior, and (ii) the legitimate military objective to target Seleka armed forces in Bangui. In this regard, the RFACPP was never aligned with the Anti-Balaka North Coordination or factions thereof throughout the charged period.

262. In relation to the Anti-Balaka South Coordination, as described by P-0876, the RFACPP did not formally join the coordination noting that it was a political means to engage with the international

⁸⁷⁰ 300.000 FCFA equals approx. €460.

⁸⁷¹ P-0487: T-204, p. 16, lines 12-16.

⁸⁷² P-0487: T-207, p. 17, lines 14-16.

⁸⁷³ P-0954: [CAR-OTP-2048-0171-R03](#), para. 51; T-167, p. 67, line 20.

⁸⁷⁴ P-0487: T-204, p. 14, lines 22-24.

⁸⁷⁵ P-0487: T-202, p. 62, lines 1-3.

⁸⁷⁶ ICC-01/11-01/14-723-Conf, para. 141.

⁸⁷⁷ See also [CAR-OTP-2001-3811](#), p. 3817: stating in relation to RFACPP that they 'want to be part of the future DDR and became relatively moderate as soon as Djotodia had quit: they reconciled with Gula near PK9 and avoided indiscriminate violence'.

⁸⁷⁸ P-0884: T-056, p. 78, line 16 to p. 79, line 3; T-058, p. 66, lines 2-11.

community to restore peace in CAR.⁸⁷⁹ In this regard the RFACPP was supportive of the objectives of the Anti-Balaka South Coordination to restore political order in a non-violent manner,⁸⁸⁰ which aligned with that of the movements,⁸⁸¹ and would attend meetings upon the direction of P-0876⁸⁸² including short lived efforts to unite the aims of the northern and southern group objectives.⁸⁸³ The RFACPP was not however a representative of the Anti-Balaka South Coordination throughout the charged period, and continued to be presented as the RFACPP and not the ‘anti-balaka’ north or south.⁸⁸⁴

3. Mr. Yekatom did not exercise full control over the RFACPP movement

a) RFACPP structures

i) Composition

263. As set out above, the RFACPP was established by Mr. Yekatom, Beina and Ouandjio as a military initiative in order to restore peace and security within CAR in accordance with their military duties. In this regard, and to secure its objectives, the core movement was composed of, and led by, FACA members,⁸⁸⁵ who occupied positions as section chiefs. FACA members who joined the movement were not given any new or formal titles of positions within the RFACPP but rather identified themselves by their FACA ranks alone and included military personnel who were of the equivalent rank as Mr. Yekatom, Beina and Ouandjio.⁸⁸⁶ In contrast, non-military members occupied more limited roles, insofar as was necessary to meet the demands of the response to the crisis.

264. Consistent with the principle of civil-military neutrality, the RFACPP functioned as neither a political nor religious movement, such that members of the Muslim faith were part of the movement,⁸⁸⁷ as well as FACA personnel and non-military members who had previously fought as part of the Seleka forces and were still permitted to join the RFACPP.⁸⁸⁸

265. The military emphasis of the movement is further supported by the fact RFACPP members were distinguishable in military attire, particularly when conducting outings and missions.⁸⁸⁹ This was

⁸⁷⁹ P-0876: T-086, p. 91, lines 8-14; p. 67, lines 10-15.

⁸⁸⁰ P-0876: T-086, p. 74, lines 18-24.

⁸⁸¹ P-0876: T-086, p. 67, lines 10-15.

⁸⁸² P-0876: T-086, p. 49, lines 7-12; p. 64, lines 11-19; p. 72, lines 13 to 26.

⁸⁸³ P-0876: T-086, p. 47, lines 15-25.

⁸⁸⁴ P-1839: T-173, p. 12, lines 10-19; P-0876: T-086, p. 79, lines 5-11; P-1839: T-173, p. 5, lines 3-8.

⁸⁸⁵ P-0888: T-120, p. 54, lines 7-14; *contra* P-1339: T-155, p. 54, lines 22-24.

⁸⁸⁶ P-1647: T-194, p. 8, lines 20-24; P-0487: T-203, p. 64, lines 18-2.

⁸⁸⁷ P-2354: T-210, p. 20, lines 25-28; P-0888: T-122, p. 18, lines 22-28. See also [CAR-OTP-2065-0400](#), at [00:00:46] / [CAR-OTP-2107-6921](#) (*on est apolitique*).

⁸⁸⁸ P-1786: [CAR-OTP-2058-0200-R03](#), paras. 16, 19; P-0888: T-122, p. 16, line 27 to p. 17, line 7.

⁸⁸⁹ P-1839: T-174, p. 77, lines 7-15; T-175 p. 6, lines 4-12. See [CAR-OTP-2094-7618](#), [00:10:00] to [00:10:10], [00:23:00] to [00:23:40].

a collective choice by members, noting that military uniforms served as a reminder of the military objectives and, more pertinently, to ensure that members remained recognisable and distinguishable from ‘anti-balaka’ groups and local civilian groups. Misidentification issues were heightened in larger areas, such as the Lobaye prefecture wherein individuals would assimilate or associate themselves with the ‘anti-balaka’ in the region but were in no way part of the RFACPP movement.⁸⁹⁰ Indeed, a recurring theme of the OTP’s case is to conflate the size of the RFACPP movement with ‘anti-balaka’ groups so as to broaden the alleged responsibility of Mr. Yekatom. The basis for doing so is flawed in several respects.

266. First, the OTP has routinely sought to rely on video material to depict the size of the RFACPP, and in doing so, has directed the Chamber to take note of videos which evidently depict members who are not part of the RFACPP and cannot therefore be part of any assessment as to the size of the RFACPP.⁸⁹¹ This is evident by the attire worn by such individuals in these videos – including but not limited to the prominence of *gris gris*, which are not worn by RFACPP members.⁸⁹² Notably, the OTP relies on such videos despite also asserting that members of the RFACPP are identifiable by the military uniforms.⁸⁹³

267. Second, the OTP’s assertion that the RFACPP consisted of 3,000 fighters⁸⁹⁴ is based on no more than exaggerated figures and unreliable accounts. For example, during direct examination, P-0954 was shown CAR-OTP-2055-2610 whereby Mr. Yekatom informs a journalist that there were 3,000 men in the movement; and P-0954 confirms this figure while providing no further basis for this assertion, instead, referring to his initial statement whereby he had claimed that the RFACPP consisted of ‘3000 elements [...] [and] around 200 FACA’ and that he knew this as [REDACTED] had access to [Mr.] Yekatom's list of staff’.⁸⁹⁵ P-0954’s claim in this regard is based on no more than propaganda (and was a characteristic demonstration of his propensity to present false information as ‘insider’ knowledge). In particular, several witnesses, including P-0888 and P-0801 confirm that the 3,000 figure was no more than a strategic tactic; Mr. Yekatom was speaking with a journalist and was aware that the figure would be recirculated to Seleka forces.⁸⁹⁶ As attested to by P-0888 the size of the RFACPP would have been far less than 3,000,⁸⁹⁷ but was

⁸⁹⁰ P-0888: T-121, p. 7, lines 2-7, p.7, line 19 to p. 8, line 3.

⁸⁹¹ See for e.g. [CAR-OTP-2065-0802](#), see also submissions made on this item in ICC-01/14-01/18-2233-Conf-AnxA, item #197.

⁸⁹² [CAR-OTP-2065-2861](#) / [CAR-OTP-00002168](#); [CAR-OTP-2065-2895](#) / [CAR-OTP-2107-1545](#).

⁸⁹³ ICC-01/14-01/18-2057-Conf-AnxA, #41, 175, 194, 215, 243.

⁸⁹⁴ ICC-01/14-01/18-723-Conf, paras. 7, 89, 322, 356.

⁸⁹⁵ P-0954: T-166, p. 64, line 9 to p. 67, line 19; [CAR-OTP-2048-0171-R03](#), para. 80.

⁸⁹⁶ P-0888: T-120, p. 36, line 17 to p. 37, line 5; P-0801: T-037, p. 27, line 16 to p. 28, line 9; P-1521: p. 37, line 21 to p. 38, line 2.

⁸⁹⁷ P-0888: T-120, p. 38, lines 9-13.

otherwise difficult to estimate without seeing all the members in one place.⁸⁹⁸

268. Further, the list of staff referred to by P-0954 is in reference to CAR-OTP-2039-0063 which, the OTP asserts, is a military list signed by Mr. Yekatom. The list however is inaccurate and includes individuals that are either not FACA, are relatives of FACA members, or are FACA members who were not part of the RFACPP movement.⁸⁹⁹ This includes P-0954,⁹⁰⁰ who was never part of the RFACPP movement and who confirmed that the list was drawn up after the Brazzaville agreement in an attempt to obtain rank promotions for soldiers along the southern axis.⁹⁰¹ The reliability of the list is also undermined by the alleged author of the list. Whilst the OTP has sought to lead evidence that the list would have been [REDACTED]-⁹⁰² [REDACTED] and further that the list would have been drawn up after he allegedly left the RFACPP.⁹⁰³

269. The compilation of fraudulent lists is a recurring feature of the OTP case, including with reference to CAR-OTP-2101-3241.⁹⁰⁴ Contrary to the OTP's reliance on this list, it is not an accurate depiction of the individual members of the RFACPP movement. Indeed, as stated by P-0888, the [REDACTED] as part of the DDR process and includes individuals that have never been in the military, let alone part of the RFACPP movement, for promotional purposes only.⁹⁰⁵

ii) Leadership

(a) *Lack of de facto hierarchical structure*

270. Contrary to the OTP's narrative, the RFACPP was not a strict military structure with Mr. Yekatom as the commander-in-chief. Neither the realities of the CAR crisis nor the evidence support such a theory.

271. First, the evidence does not categorically establish that Mr. Yekatom perceived himself to be, represented, or in concrete terms fulfilled the role of the overarching and sole leader of the RFACPP during the charged events or that the movement would have been organised in a strict hierarchal structure in real terms.⁹⁰⁶ Rather, as repeatedly described by witnesses in this case, Mr. Yekatom would routinely present himself by his FACA title, Caporal Chef.⁹⁰⁷ This includes, for

⁸⁹⁸ P-0487: T-202, p. 7, lines 13-19.

⁸⁹⁹ [CAR-REG-0001-0011](#).

⁹⁰⁰ [CAR-OTP-2039-0063](#), row 5.

⁹⁰¹ P-0954: T-168, p. 9, lines 18-27; P-1839: T-174, p. 39, line 14 to p. 41, line 3.

⁹⁰² P-1339: T-151, p. 51, lines 3-12.

⁹⁰³ P-1339: T-158, p. 38, line 24 to p. 42, line 7.

⁹⁰⁴ P-1839: T-174, p. 37, line 14 to p. 38, line 7.

⁹⁰⁵ P-0888: T-120, p. 38, lines 19-25, p. 40, line 3 to p. 43, line 18. See also, P-1839: T-172, p. 93, lines 1-20.

⁹⁰⁶ *Contra* ICC-01/14-01/18-282-Conf, para. 11. *Contra* [CAR-OTP-2118-0415/CAR-OTP-2127-4410](#) which is dated 5 January 2016 (see Nuix metadata) i.e. after June 2014 coordination.

⁹⁰⁷ P-1839: T-172, p. 87, line 27 to p. 28, line 7; p. 81, line 11 to p. 82 (commenting on [CAR-OTP-2065-3180](#)); P-1666: T-230, p. 41, lines 6-8; D29-5012: T-293, p. 55, lines 18-19; D29-5015: T-255, p. 32, lines 15-17; [CAR-OTP-2065-0396](#) [00:00:17] to [00:00:23] / [CAR-OTP-2122-2284](#), p. 2286, lines 10-14.

example, high profile meetings including the Sainte-Jeanne d'Arc meeting on 30 January 2014, where community leaders and foreign interlocutors were in attendance.⁹⁰⁸ Had Mr. Yekatom considered himself to be the sole leader of any group or movement, then it would reasonably have been expected that he would have presented himself in this prominent role in such a significant meeting. This inference is further supported by P-0888, who described the fact that Mr. Yekatom would expressly insist that he was referred to by his correct FACA title, such that even where NGO representatives would present Mr. Yekatom as a 'Colonel', Mr. Yekatom would correct them.⁹⁰⁹

272. Mr. Yekatom's presentation by FACA title is also applicable in relation to private meetings, with P-1839 explaining that when [REDACTED] first met Mr. Yekatom, he introduced himself by name alone and did not assert any leadership title.⁹¹⁰ Indeed, P-1839 did not assert that Mr. Yekatom was the '*grand commandant*',⁹¹¹ emphasising that it was [REDACTED] who informed the witness that Mr. Yekatom was '*le chef des Anti-Balaka*'.⁹¹² P-1839 was not asked by OTP counsel to provide any further explanation as to the basis or context of this statement of [REDACTED] (who is deceased). In such circumstances, there is little, if any, value to be derived from such a comment noting that: (i) P-1839 testified that Mr. Yekatom vehemently distinguished 'anti-balakas' from the RFACPP movement,⁹¹³ and (ii) the term 'chief' is routinely used by witnesses in reference to several RFCAPP FACA members including, *inter alia*, Mr. Yekatom and Ouandjio,⁹¹⁴ and appears to correspond to their FACA titles.⁹¹⁵

273. Second, and relatedly, the OTP places emphasis on the title of 'deputy' as a means to infer some sort of command or hierarchal structure.⁹¹⁶ The OTP's approach is misconceived, relying on assumptions about military hierarchies without establishing the *de facto* functions and roles of alleged perpetrators and then seeking to direct the evidence to fit such assumptions without further testing. As such, the OTP fails to establish in concrete terms just what such titles mean or how the titles influenced or impacted the leadership and organisation of the RFACPP.

⁹⁰⁸ P-1839: T-172, p. 87, line 14 to p. 88, line 7. See also D29-5012: T-295, p. 22, lines 1-8 (see in particular T-295, p. 22, lines 3-8 '*on n'a pas dit que « voilà, je suis le chef et puis voilà mon adjoint, voilà le secrétaire, voilà le chargé de ceci » non, non, non. Donc, c'était... quand j'ai utilisé le mot « impression », c'est parce que personne ne nous a dit, et donc nous avons des... on a fait des constats. Et donc, c'était par rapport à nos constats, à sa manière de... de réagir; tout ça, là, voilà.*').

⁹⁰⁹ P-0888: T-120, p. 35, lines 1-10.

⁹¹⁰ P-1839: T-170, p. 17, lines 7-10.

⁹¹¹ P-1839: T-170, p. 17, lines 18-20.

⁹¹² P-1839: T-170, p. 17, lines 13-14.

⁹¹³ See below.

⁹¹⁴ [CAR-OTP-2065-2157](#) / CAR-2127-6585, line 15.

⁹¹⁵ [CAR-OTP-2065-3212](#) / [CAR-OTP-2127-3662](#), lines 10, 27-29, see also submissions made on this item in ICC-01/14-01/18-2233-Conf-AnxA, p. 232, item #246.

⁹¹⁶ ICC-01/14-01/18-723-Conf, paras. 363, 447.

274. For example, even taking the OTP's case at its highest – i.e. the premise that Ouandjio was assigned the title of 'deputy' is accepted – there is no probative evidence that this resulted in a *de facto* hierarchical relationship between Mr. Yekatom and Ouandjio. Noting that the latter is deceased, the OTP has failed to establish the precise dynamics between Mr. Yekatom and Ouandjio. Not one single OTP witness could provide direct evidence in this regard, with the OTP having to resort to mere assumptions and unreliable accounts.

275. For example, the military witnesses called in this case had limited exposure to the interactions between Mr. Yekatom and Ouandjio or the general organisation of the movement. Indeed, the movement as a whole would have only been based at Yamwara school for under three weeks and even then, members joined along the axis. As a result, when pressed, military witnesses or those with military exposure, reverted to the prior FACA experiences as opposed to the reality of the situation. For example, P-0888 – who was not based at Yamwara school – was asked to identify '*qui se trouvait au commandement de M. Yekatom, à savoir au sein du groupe, qui dirigeait son groupe?*'⁹¹⁷ Whilst P-0888 responds that '*après la mort de Ouandjio, Habib est devenu son adjoint*',⁹¹⁸ his remaining response as to how this alleged command would have operated is predominantly linked to military conventions⁹¹⁹ – that is, as explained by the P-0888, principles concerning routine conduct such as the wearing of military uniform.⁹²⁰ Upon further questioning concerning military orders, P-0888's response is framed in a generic manner, based on formal military rules,⁹²¹ and does not shed any further light as to whether or not there was any superior relationship *vis-à-vis* Mr. Yekatom and Ouandjio.

276. Similarly, when P-0487 is questioned on the functions of Ouandjio as deputy,⁹²² or how the alleged command structure was organised,⁹²³ P-0487 repeatedly states that he does not know how the RFACPP would have been organised and, as with P-0888, reverts back to generic military models to provide his response.⁹²⁴ This is repeated throughout the OTP's case with various witnesses explaining that they would not have been privy to such discussions between Mr. Yekatom and Ouandjio. For example, whilst it is P-1339's evidence that Mr. Yekatom would have issued orders to the whole movement through Ouandjio and Beina, this is wholly undermined by his own concession that he was never privy to such exchanges, on account of his civilian status.⁹²⁵

⁹¹⁷ P-0888: T-120, p. 34, lines 10-12.

⁹¹⁸ P-0888: T-120, p. 34 lines 14-15.

⁹¹⁹ P-0888: T-120, p. 34, lines 17 to p. 35, line 23.

⁹²⁰ P-0888: T-120, p. 35, lines 20-21.

⁹²¹ P-0888: T-120, p. 35, line 35 to p. 36, line 15.

⁹²² P-0487: T-202, p. 6, lines 4-5.

⁹²³ P-0487: T-202, p. 4, lines 8-11.

⁹²⁴ P-0487: T-202, p. 6, lines 6-11, p. 4, line 12.

⁹²⁵ P-1339: T-159, p. 35, line 22 to p. 36, line 3. See also P-1839: T-173, p. 56, lines 6-11.

277. Third, and of significance, Ouandjio had more years of military service than Mr. Yekatom and was assigned to the elite Presidential Guard.⁹²⁶ Whilst the OTP asserts that Mr. Yekatom would have organised the movement ‘in a military-like hierarchy’,⁹²⁷ its position is contradictory. Either the RFACPP was organised with respect to strict military hierarchies, in which case Ouandjio would outrank Mr. Yekatom; or the movement did not adopt formal military structures, and in which case the military hierarchy as espoused and led by the OTP is no more than supposition.

278. Accordingly, it cannot be assumed that a formal hierarchal structure akin to military organisation was in place by virtue of the fact that Mr. Yekatom and Ouandjio were FACA members or that the RFACPP movement pursued military aims. This is further supported by the manner in which decisions were taken within the RFACPP movement. For example, the decision to leave Yamwara school was not issued as a directive from Mr. Yekatom but rather involved a collective discussion of several RFACPP members.⁹²⁸ Moreover, Mr. Yekatom is captured in real time holding strategical discussions with military personnel and facing openly-expressed resistance or opposition to his position.⁹²⁹

279. Fourth, the issue is further compounded in relation to non-military members. Whilst P-1839 states in direct examination that ‘*son adjoint, c’est Cœur de Lion [Ouandjio]; et son... son bras droit, c’est-à-dire que celui qui...qu’il est beaucoup proche, c’est M.Habib Beina*’,⁹³⁰ [REDACTED] fails to specify the basis for this conclusion. P-1839 does not assert that Ouandjio or Beina would have been introduced to [REDACTED] as such or that [REDACTED] had any direct evidence as to what these terms mean in concreto. Indeed, noting that P-1839 is a civilian, is it reasonable to infer that P-1839 would have made this assessment based on a lay person’s limited understanding of military hierarchies and an assumption that as FACA members, Mr. Yekatom, and Ouandjio would have implemented such a hierarchy. This is further compounded by the fact that, as described by P-0974, Mr. Yekatom was seen as being in a more senior role merely because he was more articulate than Ouandjio.⁹³¹

280. This inference is further confirmed by P-1839, who, when asked whether Ouandjio ‘*était sous les ordres de M. Yekatom*’, initially responded that [REDACTED] did not know; and then commented that ‘*[REDACTED] pense que, entre eux, les... les militaires, tout vient de la*

⁹²⁶ P-1786: T-198, p. 28, lines 22-24; P-2602: [CAR-OTP-2118-9764-R01](#), p. 9779.

⁹²⁷ ICC-01/14-01/18-723-Conf, para. 89.

⁹²⁸ P-1839: T-174, p. 13, line 13 to p. 15, line 21.

⁹²⁹ [CAR-OTP-2065-4605](#) / [CAR-D29-0006-1321](#); and see P-1786: T-198, p. 6, line 27 to p. 10, line 7. See also [CAR-OTP-2065-4849](#) / [CAR-OTP-2118-5685](#).

⁹³⁰ P-1839: T-170, p. 17, lines 20-22.

⁹³¹ P-0974: [CAR-OTP-2058-0165-R01](#), para. 91.

*hiérarchie, en fait.*⁹³² As set out below, P-1839's hierarchical assumptions are however betrayed when the witness is pressed for details as to how Mr. Yekatom and Ouandjio actually operated in reality.

281. P-1839's erroneous assumptions with regard to any hierarchical command structure is also replicated amongst other non-military witnesses who have no direct knowledge of any internal organisation amongst and between Mr. Yekatom and Ouandjio. This includes: P-1339 (who, when directed,⁹³³ oscillates between his description of Mr. Yekatom, Ouandjio and Beina as being collective leaders on the one hand,⁹³⁴ and as a hierarchy on the other with Ouandjio as Mr. Yekatom's deputy and Beina as Ouandjio's deputy);⁹³⁵ P-0889 (who ambiguously asserts that Ouandjio was '*son adjoint*', despite then acknowledging that he had no clue as to how the movement was organised);⁹³⁶ P-1193 (who asserts that Mr. Yekatom was the 'battalion commander' based on the rudimentary understanding that he would have had '*plusieurs hommes sous sa diligence*');⁹³⁷ P-2232 (who asserts that Mr. Yekatom '*Lui, Rombhot, il était le chef de ce secteur jusqu'à Lobaye et Boda*', despite acknowledging that he would have only seen Mr. Yekatom once);⁹³⁸ P-1704 (who assumes Mr. Yekatom was the 'chief of the anti-balaka' as he falsely alleges that Mr. Yekatom '*c'était lui qui prenait la parole*' when he arrived at Yamwara before then asserting that [REDACTED] was Mr. Yekatom's deputy);⁹³⁹ P-1716 (who asserts that Ouandjio would have indicated that he was awaiting orders for his release from his '*supérieur*', in direct contradiction of evidence which demonstrates that Ouandjio would have concealed the apprehension/detention from Mr. Yekatom);⁹⁴⁰ and P-1558 (who, noting the limited quality and quantity of time spent with the RFACPP, alternatively describes Ouandjio as Mr. Yekatom's aide-de-camp and then his deputy, before then suggesting that Ouandjio had his own elements).⁹⁴¹
282. Similarly, P-2475's inconsistent evidence in relation to Mr. Yekatom's alleged command over all RFACPP members is wholly unreliable,⁹⁴² noting the discrepancies in his response as to how the movement was organised into sections and the timing of such organisation,⁹⁴³ as well as his lack

⁹³² P-1839: T-170, p. 45, lines 17-23.

⁹³³ P-1339: T-151, p. 38, lines 10-12; T-152, p. 12, lines 9-10.

⁹³⁴ P-1339: T-151, p. 44, lines 7-9; T-158, p. 22, line 28 to p. 23, line 5; p. 24, lines 5-15.

⁹³⁵ P-1339: T-151, p. 42, lines 7-8, p. 43, lines 1-2, p. 44, lines 15-16; T-152, p. 12, lines 9-14; T-158, p. 42, lines 2-3; T-159, p. 25, lines 11-17.

⁹³⁶ P-0884: T-056, p. 72, lines 9-13.

⁹³⁷ P-1193: T-124, p. 28, line 25 to p. 29, line 3.

⁹³⁸ P-2232: T-077, p. 62, lines 23-25; T-079, p. 36, lines 17-18; see also P-2232: T-076, p. 51 line 22 to p. 52 line 5.

⁹³⁹ P-1704: T-128, p. 15, line 28 to p. 16, line 3 and 7-16.

⁹⁴⁰ P-1716: T-147, p. 16, lines 5-13, 20-26,

⁹⁴¹ P-1558: [CAR-OTP-2105-0195-R01](#), paras. 34, 40 and 100; Noting that in a formal military hierarchy, the terms 'deputy' and 'aide-de-camp' are not interchangeable and each have different functions.

⁹⁴² See Section II.C.2.a).

⁹⁴³ P-2475: T-129, p. 21, lines 12-14; T-132, p. 49, line 19 to p. 51, line 19.

of knowledge concerning the leaders of the RFACPP movement or basic facts, including where they resided whilst at Yamwara.⁹⁴⁴

283. Fifth, and finally, rather than address such inadequacies, the OTP sought to obfuscate the matter further resulting in evidence concerning the alleged hierarchal roles within the RFACPP movement having largely been improperly elicited so as to negate any probative value. For example, during the examination of P-1704, OTP counsel expressly led the witness and asked ‘*Cœur de Lion*» [Ouandjio]; *qu’en est-il de lui? Quel était son rôle? Était-il également un adjoint*’?⁹⁴⁵ The term ‘deputy’ arises for the first time from OTP counsel and is subsequently confirmed by the witness with no further questioning as to the basis for this response. P-0884 who despite initially describing Ouandjio and Beina as Mr. Yekatom’s aides-de-camp,⁹⁴⁶ is subsequently directed to provide his response in the frame of a military hierarchy. Rather than simply asking the witness whether he knows how the RFACPP was organised, OTP counsel instead states: ‘*Et vous nous avez dit, un peu plus tôt, qu’il avait des chefs de camp. Il y avait Habib, je pense, et puis il y avait aussi un autre qui s’appelait Dogué(phon.). Vous avez parlé de Cœur de Lion [Ouandjio]. Est-ce que vous savez si le groupe de Yekatom avait une hiérarchie de style militaire, ou bien un autre type d’organisation*’.⁹⁴⁷ This had a direct effect on P-0884 who confirmed the title despite conceding that he ‘*connai[t] rien de son organisation*’.⁹⁴⁸ Such examples are clear illustrations of the OTP’s attempts to mould the evidence in order to fit its narrative that there was a hierarchal structure within the RFACPP when the reality proves otherwise.

284. Fourth, and relatedly, several other witnesses overstate their access to Mr. Yekatom and Ouandjio in order to bolster their account as to the structures of the movement. For example, P-1838’s evidence that Mr. Yekatom was the ‘*le chef suprême des Anti-balaka dans la sous-préfecture de Mbaïki*’,⁹⁴⁹ and that Ouandjio was his deputy,⁹⁵⁰ is contradicted by the fact that he inflates the number of times he would have interacted with either Mr. Yekatom and Ouandjio,⁹⁵¹ noting that the latter would have died within two to three days of any initial alleged meeting between P-1838

⁹⁴⁴ P-2475: T-129, p. 64, line 13; T-132, p. 76, lines 4-5; T-133, p. 23, lines 9-14.

⁹⁴⁵ P-1704: T-128, p. 16, lines 18-20.

⁹⁴⁶ P-0884: T-055, p. 80, lines 22-28.

⁹⁴⁷ P-0884: T-056, p. 72, lines 6-11. The issues is further compounded in relation to written prior record statements which are submitted without a transcript, see *e.g.* P-0888: T-120, p. 28, lines 6-11 in which P-0888 is led by OTP counsel to confirm whether ‘[Beina] became Yekatom’s deputy after Freddy Ouandjio’. Whilst counsel may lead a witness in relation to prior recorded statements pursuant to Rule 68(3), the process should be avoided in relation to material facts in order to preserve the probative value of the statement.

⁹⁴⁸ P-0884: T-056, p. 72, line 13.

⁹⁴⁹ P-1838: T-215, p. 11, lines 25-27.

⁹⁵⁰ P-1838: T-215, p. 12, lines 6-13.

⁹⁵¹ P-1838: T-215, p. 12, lines 1-2, p. 15, lines 20-25, p. 18, lines 19-23.

and Ouandjio in Mbaïki.⁹⁵² Indeed, P-1838's account is an apt illustration as to how witnesses in these proceedings have extrapolated incorrect conclusions based on mere assumptions as to how the RFACPP movement operated. P-1838's conclusion that Mr. Yekatom was 'supreme leader' is seemingly reinforced by the fact he would have observed Mr. Yekatom driving around on a motorbike across the area.⁹⁵³ Notwithstanding the presence of 'anti-balaka' groups in the Lobaye prefecture which were not associated with the RFACPP, P-1838 makes no reference to the fact that he would have been informed by Mr. Yekatom or Ouandjio that the former was the 'supreme leader' and yet despite this crucial detail, is willing to speculate – under oath- that Ouandjio must have been sent by Mr. Yekatom to Boda in order to '*conquérir la ville*'.⁹⁵⁴ As detailed below, there is ample evidence to suggest that Ouandjio's travel to Boda was made independently of Mr. Yekatom's direction or even agreement. P-1838's propensity to double down on unsourced and inaccurate allegations against Mr. Yekatom is further demonstrated by his evidence that Mr. Yekatom would have tried to kill P-1813, which he defiantly reiterates despite being informed that P-1813 had testified that this allegation was untrue, that Mr. Yekatom did not try to kill P-1813 and that P-1813 would not have informed P-1838 of this false allegation.⁹⁵⁵

(b) Independent functionality

285. In contrast to the assumptions made with regard to the structures employed within the RFACPP, there is direct evidence that the movement consisted of two units each with independent functionality. In particular, several insider witnesses - i.e. former RFACPP members –testified to the fact Mr. Yekatom and Ouandjio were each in a position to take independent decisions and issue separate orders.

286. First, each unit had the capacity to operate independently from the other. The movement as a whole was composed of sub-sections, which were led by FACA personnel,⁹⁵⁶ and the registration, training and discipline of the members in the respective units was carried out separately under the auspices of the relevant section chief. Moreover, Mr. Yekatom and Ouandjio each had their own aides-de-camp,⁹⁵⁷ which further demonstrates a degree of seniority for each leader, and, more tellingly, is evidence of each unit requiring their own separate confidential assistants. Further, it is

⁹⁵² Ouandjio died in early February 2014, see P-1666: T-232, p. 6, lines 7-14; T-231, p. 30, lines 6-13, who says he saw Ouandjio's body before the evacuation on 6 February; P-2389: [CAR-OTP-2104-0033-R03](#), paras. 61, 67; see with [CAR-OTP-2090-0373](#), p. 0377 which mentions the Sangaris mission to Boda on 5 February. See also P-2041: [CAR-OTP-2104-0003-R02](#), paras. 62, 63. Note further, P-1838's testimony that Ouandjio allegedly interrogated Saleh following the evacuation of the Muslims in Mbaïki on 6 February 2014 see P-1838: T-215, p. 18, line 25 to p. 19, line 6.

⁹⁵³ P-1838: T-215, p. 11, lines 27-28; *contra* D29-5012: T-294, p. 80, lines 7-15.

⁹⁵⁴ P-1838: T-215, p. 15, lines 18-19.

⁹⁵⁵ P-1838: T-215, p. 56, lines 7-16.

⁹⁵⁶ P-1647: T-195, p. 43, line 27 to p. 44, line 1; P-1786: T-197 p. 63, lines 11-14.

⁹⁵⁷ P-1839: T-174, p. 18, lines 9-14.

also notable that the *aides-de-camp* for each unit were not standardised within the RFACPP structures such that whilst Mr. Yekatom appointed military *aides-de-camp*, Ouandjio's *aides-de-camp* were civilian.⁹⁵⁸ This is also reflected by the fact that the non-military personnel were considered to be loyal to Ouandjio and not Mr. Yekatom.⁹⁵⁹

287. Second, and relatedly, there is also clear evidence of the fact that Ouandjio had members that were strictly loyal to him,⁹⁶⁰ who had the capability of operating independently of Mr. Yekatom's unit. The members within each unit were also not automatically shared or transferred across the RFACPP movement. For example, Mr. Yekatom had to seek permission from [REDACTED]— who was part of Ouandjio's unit⁹⁶¹ - to assign specific tasks to P-1839.⁹⁶² Further - as testified by P-1786, P-1647, P-1839, P-1858 and P-0888 - following the death of Ouandjio, members that were part of his unit defected and went on to form other movements.⁹⁶³ More pertinently, members from Ouandjio's unit could not operate within any other RFACPP unit following his death and were not subject to the responsibility of Mr. Yekatom.⁹⁶⁴ This is of particular significance and further establishes the siloed operation of the two units under Mr. Yekatom and Oujandjio.

288. In this regard, whilst several witnesses attest to the fact that Mr. Yekatom would have appointed Beina as his 'deputy' following the death of Ouandjio,⁹⁶⁵ none of these witnesses provide any basis for this assertion. This is a pertinent omission, noting there is also no further evidence as to what this appointment would have meant or changed in concrete terms. It has not been established that Beina assumed any additional responsibilities which were otherwise attributed to Ouandjio – including, not least, responsibility for Ouandjio's unit, or indeed any alleged territorial responsibilities. For example, whilst P-1786 asserts that Ouandjio was the leader in Mbaïki prior to his death,⁹⁶⁶ the evidence establishes that he is replaced by [REDACTED] and not Beina.⁹⁶⁷

⁹⁵⁸ P-1839: T-174, p. 18, lines 9-14; See also, P-1813: [CAR-OTP-2069-0035-R02](#), para. 57. See also e.g. [CAR-OTP-2065-3180](#), [00:00:48] to [00:00:51] / [CAR-OTP-2122-7503](#), lines 20-21; [CAR-OTP-2065-3488](#) / [CAR-OTP-2127-7520](#) cf. [CAR-OTP-2065-0838](#) / [CAR-OTP-00002091](#).

⁹⁵⁹ See for example [CAR-OTP-2065-4910/CAR-D29-0006-1320](#), see particularly lines 11-12 where members are heard saying '*nous avons besoin plutôt de [Ouandjio]*'.

⁹⁶⁰ P-1647: T-196, p. 15, lines 9-11; P-0888: T-122, p. 63, lines 19-21; P-0974: [CAR-OTP-2058-0165-R01](#), para. 91; P-1839: T-174, p. 22, line 18 to p. 23, line 4, p. 25, lines 10-14. See also [CAR-OTP-2065-4910](#) / [CAR-D29-0006-1320](#) with reference to members calling for Oujandjio.

⁹⁶¹ P-1839: T-174, p. 25, lines 10-14.

⁹⁶² P-1839: T-170, p. 47, lines 20-23.

⁹⁶³ P-1786: [CAR-OTP-2058-0200-R03](#), para. 51; P-0888: T-122, p. 66, lines 17-21, 23 to p. 67, line 5; P-1839: T-174, p. 21, line 26 to p. 22, line 6; P-1858: [CAR-OTP-2063-0050-R04](#), para. 83; P-1858: [CAR-OTP-2105-0195-R01](#), para. 82; P-1647: T-196, p. 15, lines 12-14.

⁹⁶⁴ P-1839: T-174, p. 22, lines 14-16.

⁹⁶⁵ P-1647: [CAR-OTP-2050-0654-R02](#), para. 51; T-195, p. 54, lines 10-11; P-0487: T-201, p. 66, lines 18-19; P-1839: T-174, p. 22, lines 22-26; P-0888: T-120, p. 34 lines 14-15.

⁹⁶⁶ P-1786: [CAR-OTP-2058-0200-R03](#), para. 46.

⁹⁶⁷ P-1647: T-194, p. 61, line 24 to p. 62, line 4

289. Third, although the two units shared the core objectives of the RFACPP, the evidence that Ouandjio was operating independently is also seen in relation to decisions taken at Yamwara school, noting that Mr. Yekatom: (i) did not occupy a building at the base,⁹⁶⁸ (ii) very rarely visited the base,⁹⁶⁹ and (iii) when he did visit, it was for brief periods of time.⁹⁷⁰
290. The two units also routinely conducted separate operations. P-1786 described the fact that strategical operations against Seleka forces were often undertaken by Mr. Yekatom in the absence of Ouandjio,⁹⁷¹ and vice versa. For example, P-1786 also indicated that Mr. Yekatom and Oujandjio undertook independent operations including, as an example, in relation to Batalimo whereby Oujandjio would have taken the decision to travel to Batalimo whilst the Seleka forces were still reportedly there and in contrast to Mr. Yekatom.⁹⁷²
291. This is also most prominently depicted by P-1647 in relation to Ouandjio's travel, from Mbaïki to Boda, along with members of his unit, with the intention of fighting Seleka forces. P-1647 provides a first-hand account of a telephone conversation between Ouandjio and Mr. Yekatom in which *[Ouandjio] dit il voulait aller à Boda et Yekatom l'a refusé qu'il aille à Boda. Mais c'est à leur propre idée qu'ils décident de passer à Boda*.⁹⁷³ Moreover, this was a public conversation overhead by several other FACA members,⁹⁷⁴ which was separately corroborated by D29-5016.⁹⁷⁵
292. Ouandjio's travel to Boda was undoubtedly an important and strategical military decision. The fact that the decision was undertaken solely by Ouandjio demonstrates that he did not require Mr. Yekatom's permission, nor did he have any regard for Mr. Yekatom's disagreement.
293. Nor was the decision to travel to Boda an isolated example of Ouandjio taking independent decisions and issuing separate orders. For example, P-1839 testified to the fact that Ouandjio – and his unit - would undertake acts without the knowledge – let alone any instruction or agreement – of Mr. Yekatom,⁹⁷⁶ and that P-1839 considered that *'Cœur de Lion [Ouandjio] aussi peut faire ce qu'il veut aussi'*.⁹⁷⁷ This is also corroborated by P-0888 who provided various examples where Ouandjio and Mr. Yekatom disagreed, whilst the movement was based at Yamwara school and

⁹⁶⁸ P-1839: T-173, p. 29, line 24 to p. 30, line 16; P-1647: T-195, p. 17, lines 16-22; P-1786: [CAR-OTP-2058-0200-R03](#), para. 22; *contra* P-2475: T-129, p. 64, line 13; T-133, p. 23, lines 9-14.

⁹⁶⁹ P-1839: T-173, p. 29, lines 15-26; P-1647: T-195, p. 16, lines 1-12.

⁹⁷⁰ P-1786: T-197, p. 42, lines 10-12; P-1839: T-173, p. 29, lines 15-23; P-1647: T-195, p. 16, lines 1-7.

⁹⁷¹ P-1786: [CAR-OTP-2058-0200-R03](#), para. 35.

⁹⁷² P-1786: [CAR-OTP-2058-0200-R03](#), paras. 47-48, [CAR-OTP-00000843](#), p. 4.

⁹⁷³ P-1647: T-196, p. 13, lines 10-12.

⁹⁷⁴ P-1647: T-196, p. 13, lines 21-26.

⁹⁷⁵ D29-5012: T-295, p. 24, line 9-13.

⁹⁷⁶ P-1839: T-174, p. 18, lines 19-22.

⁹⁷⁷ P-1839: T-174, p. 20, lines 9-14; see also T-170, p. 45, lines 17-19.

along the axis - including in relation to Ouandjio's seizure of an Enerca vehicle.⁹⁷⁸ Notably, it was only after Ouandjio's death that Mr. Yekatom was able to return the vehicle to its owner,⁹⁷⁹ thereby further demonstrating the independence of Ouandjio's conduct.

294. Fourth, the evidence depicts a friction between Mr. Yekatom and Ouandjio, with multiple witnesses, including *inter alia*, P-1647, P-1839, P-1558 and P-1786,⁹⁸⁰ describing repeated disagreements between the two of them, and which would have resulted in Ouandjio keeping his distance from Mr. Yekatom.⁹⁸¹ Indeed, as explained by P-0888, Ouandjio did not get along with either Mr. Yekatom or Beina,⁹⁸² and he would have threatened the latter,⁹⁸³ who was a part of Mr. Yekatom's unit.⁹⁸⁴ This is further corroborated by P-1786 who describes Ouandjio as having held the authority to 'stand up to Mr. Yekatom'.⁹⁸⁵ Although P-1786 states he was not aware of any such occasion, this does not mean that it did not occur noting that P-1786 was not present when the RFACPP movement was first established, was not privy to all communications amongst and between Mr. Yekatom and Ouandjio, and moreover, as set out above, there are concrete examples of where Ouandjio separately exercised his authority.⁹⁸⁶

(c) *Training*

295. It is the OTP's case that Mr. Yekatom would have trained thousands of elements in Kalangoi for over a period of three months, along with Ouandjio and Beina in the use of weapons and ammunition, and that this would have continued at Yamwara school, whereby children under the age of 15 were also provided with military-like training.⁹⁸⁷ The OTP's narrative has not materialised.

296. At the outset, and as illustrated in other sections of this brief, the OTP has failed to establish that the RFACPP comprised 'thousands' of members at any given point,⁹⁸⁸ nor is there any reliable evidence that children were part of the movement such that they would have been subject to 'military-like' training.⁹⁸⁹ Further, P-1339 is the only witness to assert that the RFACPP would

⁹⁷⁸ P-0888: T-122, p. 60, line 25 to p. 61, line 13.

⁹⁷⁹ P-0888: T-122, p. 59, lines 12-13.

⁹⁸⁰ P-1647: T-196, p. 14, line 21 to p. 15, line 3; P-1786: [CAR-OTP-2058-0200-R03](#), para. 56; P-1558: [CAR-OTP-2105-0195-R01](#), para. 42; P-1839: T-174, p. 18, lines 15-22, p. 20, line 28 to p. 21, line 9; *contra* P-1339: T-151, p. 45, lines 13-19 which is subsequently contradicted by P-1339 with examples of disagreements see *e.g.* P-1339: T-155, p. 25, lines 14-21; T-160, p. 21, lines 22-26.

⁹⁸¹ P-1786: [CAR-OTP-2058-0200-R03](#), para. 5.

⁹⁸² P-0888: T-122, p. 63, lines 6-21.

⁹⁸³ P-0888: T-122, p. 62, line 2.

⁹⁸⁴ P-0888: T-120, p.43, lines 10-12.

⁹⁸⁵ P-1786: [CAR-OTP-2058-0200-R03](#), para. 26.

⁹⁸⁶ P-1786: T-197, p. 60, lines 18-22 cf. P-1786: [CAR-OTP-2058-0200-R03](#), para. 26.

⁹⁸⁷ ICC-01/14-01/18-723-Conf, paras. 7, 88, 146-147, 322, 358, 361, 377, 444, 486.

⁹⁸⁸ See Section IV.A.3.a).i.

⁹⁸⁹ See Section IV.B.4.

have allegedly been initially based in Kalangoi,⁹⁹⁰ and in doing so, not only provides an incoherent account as to the alleged training conducted,⁹⁹¹ but is unable to locate Kalangoi or accurately describe the location. When asked to identify the area in which RFACPP would have first travelled from Zongo, P-1339 repeatedly refers to Sekia and then Sekiamoté⁹⁹² – despite the fact that neither of these locations are close to one another.⁹⁹³ When asked to identify the alleged base on a map, P-1339 marks a location which neither corresponds to his description of the location in his court testimony,⁹⁹⁴ nor his prior statement⁹⁹⁵ and is any case, located in the DRC.⁹⁹⁶ As attested to by P-2084 and P-1558,⁹⁹⁷ Kalangoi is in CAR and not DRC – a mistake seemingly replicated by the OTP in its case following its reliance on P-1339’s false claim that the RFACPP would have been first based in Kalangoi.⁹⁹⁸

297. The OTP’s failure to prove that Mr. Yekatom organised what they claimed was a massive training camp in a foreign country illustrates that such a camp did not exist and that P-1339’s testimony in this regard is wholly unreliable.

298. This does not imply that trainings did not take place within the RFACPP movement; rather, the nature and scope of the trainings differed significantly from the OTP’s account and reflected the RFACPP’s composition, which consisted of and was led by trained military personnel.

(i) *IHL training*

299. As attested to by P-0974, P-1647 and P-1786, all FACA members received training in humanitarian law and its application in situations of armed conflict.⁹⁹⁹ This included, *inter alia*, training on the fundamental principle of distinction and the protection of civilians, including special protections for children and non-military objects such as schools and hospitals.¹⁰⁰⁰

300. In addition to following their IHL training, military personnel in the RFACPP also shared this training with non-military members who would have joined the movement.¹⁰⁰¹ Indeed, speaking from his direct experience of conducting IHL trainings for RFACPP members,¹⁰⁰² P-1647 was

⁹⁹⁰ P-1339: T-151, p. 35, lines 10-13, p. 36, lines 3-7.

⁹⁹¹ See Section II.C.2.b).

⁹⁹² P-1339: T-151, p. 25, lines 25-28, p. 31, line 22 to p. 32, line 13, 21.

⁹⁹³ [CAR-OTP-2075-1370](#): See the village of Sekia at the south-west of Bangui, between the bigger dots representing ‘Sakpa’ and ‘Bimon’; compared to Sekiamoté on the river between Bangui and Mongoumba.

⁹⁹⁴ P-1339: T-160, p. 39 line 19 to p.40, line 4.

⁹⁹⁵ P-1339: T-160, p. 40, lines 20-24, p. 38, line 16 to p. 39, line 5, p. 41, lines 4-25.

⁹⁹⁶ P-1339: T-160, pp. 36-38.

⁹⁹⁷ P-2084: T-234, p. 12, lines 10-13; P-1558: [CAR-OTP-2105-0195-R01](#), para. 48.

⁹⁹⁸ ICC-01/14-01/18-723-Conf, para. 88 citing to P-1339.

⁹⁹⁹ P-0974: [CAR-OTP-2058-0165-R01](#), para. 58; P-1786: T-197, p. 76, lines 23-26; P-1647: T-194, p. 44, line 28 to p. 45, line 5.

¹⁰⁰⁰ P-0954: [CAR-OTP-2058-0165-R01](#), para. 58; P-1647: T-194, p. 44, lines 15-19.

¹⁰⁰¹ P-1647: T-194, p. 43, lines 1-3.

¹⁰⁰² P-1647: T-194, p. 44, lines 20 to p. 45, line 2.

explicit in his testimony that members were told not to target civilians and, further, not to target individuals who were not involved in hostilities.¹⁰⁰³ This training adhered to the overall objectives of the movement – namely to restore peace and security in CAR and to prevent harm to the civilian population – and therefore, as explained by P-1786, it was important to train members so as not to commit the same acts of violence committed by the Seleka forces against the civilian population that the RFACPP had set out to protect.¹⁰⁰⁴ In particular, it was well understood by RFACPP members that both Mr. Yekatom and Ouandjio stressed the principle of distinction and expressly instructed the FACA section chiefs in each unit to train RFACPP members to adhere to this principle.¹⁰⁰⁵ In this regard, P-1786 and P-1647 confirm that Mr. Yekatom and Ouandjio did not personally conduct any trainings – either in relation to IHL training or military readiness.¹⁰⁰⁶

301. Given that the movement was composed of FACA personnel, it was not necessary to have a fixed instructor within each unit of Mr. Yekatom and Ouandjio.¹⁰⁰⁷ Indeed, as explained by P-1786, it was the section chiefs who were responsible for the training of members that reported to them such that the section chief would receive instructions to train the members and ‘*il s'exécute. Il enseigne aux enfants ce que, lui-même, il a appris en tant que militaire*’.¹⁰⁰⁸ Moreover, as described by P-1786, there was no ability to bring outsiders to train members in the circumstances.¹⁰⁰⁹

302. Similarly, whilst there may not have been a fixed schedule for the trainings across the movement as a whole, P-1647 confirmed that they would have been held up to a daily basis, and supplemented by in IHL trainings provided by international entities.¹⁰¹⁰

303. The implementation of the strict instruction to adhere to the principle of distinction was given effect in various ways. For example, P-1786 explained that he advised members ‘*de ne pas se comporter de manière contraire à nos [the movement's] objectifs*’ and that members were instructed ‘*Il ne faut pas aller braquer*’ and ‘*il ne faut pas aller voler les biens des gens*’.¹⁰¹¹ P-1786 also testified that non-military personnel were prohibited from conducting arbitrary arrests of civilians and were trained to contact military members where an individual was considered to be a part of the Seleka forces in order to prevent any harm to civilians,¹⁰¹² and provided examples

¹⁰⁰³ P-1647: T-194, p. 45, lines 14-20; T-195, p. 43, lines 18-23.

¹⁰⁰⁴ P-1786: T-197, p. 26, lines 24 to p. 27, line 5.

¹⁰⁰⁵ P-1786: T-198 (FRA), p. 40, line 26 to p. 41, line 12; see T-198 (ENG), p. 39, lines 2-16 for the answer of the witness missing in the French transcript. See also P-1786: T-197, p. 75, lines 11-15. See also P-1647: T-196, p. 20, lines 18-23.

¹⁰⁰⁶ P-1647: T-194, p. 43, lines 11-23; P-1786: T-197, p. 75, lines 3-10.

¹⁰⁰⁷ P-1786: T-197, p. 76, lines 7-17

¹⁰⁰⁸ P-1786: T-197, p. 76, lines 15-17.

¹⁰⁰⁹ P-1786: T-197, p. 76, line 14

¹⁰¹⁰ P-1647: T-194, p. 43, line 26 to p. 44, line 11; [CAR-OTP-2050-0654-R02](#), para. 33.

¹⁰¹¹ P-1786: T-197, p. 26, lines 24-27.

¹⁰¹² P-1786: T-197, p. 78, lines 13-21.

of where suspects were detained and subsequently released by military personnel.¹⁰¹³ This was distinct from the practices of certain other ‘anti-balaka’ groups whereby the apprehension of a Muslim civilian would result in immediate death.¹⁰¹⁴

(ii) *Combat arms training*

304. The OTP alleges that Mr. Yekatom organised trainings in the use of weapons including machetes, knives, guns, and AK47 in order to carry out crimes more effectively.¹⁰¹⁵ This narrative is flawed in several respects.

305. First, as previously emphasised and in light of the RFACPP's legitimate objectives, it was founded as a military movement primarily composed of FACA. Noting that as professional soldiers, FACA members would have already undertaken – at a minimum – basic arms training (Formation Élémentaire Toutes Armées/FETA),¹⁰¹⁶ it is illogical to suggest that it was even necessary for other FACA members to be trained on how to use weapons and ammunition as part of its efforts to target Seleka forces and protect the civilian population.

306. Second, the OTP's primary claim that non-military members would have been trained to mutilate civilians is entirely based on the unreliable accounts of [REDACTED] and P-2475. For example, in his initial statement, [REDACTED] had made the sensationalist claim that he would have been trained – [REDACTED] – [REDACTED] into pieces with a machete and how to use a knife.¹⁰¹⁷ At no point – despite the efforts of the OTP – did [REDACTED] repeat this claim. Rather, during the [REDACTED] direct examination, [REDACTED] claimed more generally, that he would have been trained on how to use weapons, including the assembling and disassembling of weapons whilst in the bush.¹⁰¹⁸ However, even this more general statement was subsequently revised so that by the [REDACTED] of direct examination, [REDACTED] stated that he did not participate in the trainings as [REDACTED],¹⁰¹⁹ and that he would have only observed non-military personnel being trained on how to use weapons.¹⁰²⁰ By [REDACTED] asserts that at no point was he given any weapon,¹⁰²¹ representing a significant shift from his initial allegation. Not only was this shift in his account elicited during direct examination alone – but moreover, and notwithstanding repeated Rule 74 assurances,¹⁰²² [REDACTED] had no independent recollection

¹⁰¹³ P-1786: T-197, p. 79, lines 4-13; [CAR-OTP-2058-0200-R03](#), para. 31.

¹⁰¹⁴ P-1786: T-197, p. 77, line 28 to p. 78, line 10; T-198, p. 41, line 25 to p. 42, line 3.

¹⁰¹⁵ ICC-01/14-01/18-723-Conf, paras. 146, 358.

¹⁰¹⁶ See also P-0974: [CAR-OTP-2058-0165-R01](#), para. 58.

¹⁰¹⁷ [REDACTED].

¹⁰¹⁸ [REDACTED].

¹⁰¹⁹ [REDACTED].

¹⁰²⁰ [REDACTED].

¹⁰²¹ [REDACTED].

¹⁰²² [REDACTED].

of significant details concerning the training and was repeatedly led by OTP counsel in relation to: (i) the alleged individuals who conducted the training,¹⁰²³ (ii) the alleged instructions in use of weapons, including knives and machetes,¹⁰²⁴ and (iii) the alleged purpose of the training.¹⁰²⁵ The extent and manner in which [REDACTED] was led went far beyond mere memory refreshing, with the witness frequently shown his prior statement – despite being a *viva voce* witness – in relation to incriminatory allegations concerning the training of RFACPP members before any question was even put to the witness.¹⁰²⁶ This approach negates the value of [REDACTED] account which is in any case, substantially contradicted by other available evidence in these proceedings.

307. P-2475's claim that he would have been taught how to use weapons, to include the assembly and disassembly of weapons, is also fraught with inconsistencies in relation to key aspects, including the identity of the person(s) conducting the training.¹⁰²⁷ Further still, P-2475's account is also directly contradicted by the first-hand account of P-1647 who explains this was a complex task,¹⁰²⁸ and certainly not something which – as asserted by P-2475 - would be conducted in the dark and without electricity.¹⁰²⁹

308. Third, the evidence establishes that the weapons training provided to the non-military personnel would have been limited in scope given the lack of weapons across the movement. Rather, the training was provided to ensure military readiness. For example, P-1786 attested that non-military members '*il fallait les former afin qu'ils puissent avoir l'esprit militaire*' and that therefore they received training on '*comment se coucher pendant l'attaque de Séléka, comment faire un plaquage au sol en cas d'attaque des Séléka, comment se lever, se déplacer sans...ce genre de formation quand... qu'on leur donnait*'¹⁰³⁰ [which included as an example, '*comment taper dans les bidons afin de faire du bruit lors des combats, comment attaquer les éléments des Séléka avec des bâtons*'].¹⁰³¹ P-1786's description of the military readiness training provided to non-military personnel is further corroborated by contemporaneous video evidence and reflects the rudimentary nature of the training provided to non-military members, including, *inter alia*, push-

¹⁰²³ [REDACTED].

¹⁰²⁴ [REDACTED].

¹⁰²⁵ [REDACTED].

¹⁰²⁶ [REDACTED].

¹⁰²⁷ P-2475: T-129, p. 61, lines 6-7, p. 22, lines 24-25.

¹⁰²⁸ P-1647: T-195, p. 5, line 4 to 15, p. 6, lines 10-13, 20-27.

¹⁰²⁹ *Contra* P-2475: T-129, p. 33, lines 5-10.

¹⁰³⁰ P-1786: T-197, p. 74, line 25 to p. 75, line 2.

¹⁰³¹ P-1786: T-197, p. 75, lines 15-19.

ups, running to stay fit and standing in formation.¹⁰³²

(d) *Membership*

309. Testimony from multiple OTP witnesses clearly shows that both FACA and non-military personnel joined the RFACPP voluntarily,¹⁰³³ primarily after the 5th December operation, while Seleka forces remained active, and President Djotodia retained power.¹⁰³⁴ These individuals joined because the RFACPP's goals aligned with their personal objectives to protect the country and safeguard civilians, a motive shared by both FACA members and non-military participants alike.¹⁰³⁵ As described by P-1839, the witness was driven to join at [REDACTED] own free will '*c'était pour [son] pays [...] et ce [REDACTED] subi à l'époque de la Séléka*'.¹⁰³⁶

310. By the same token, when asked directly as to whether they were forced to join the RFACPP or knew of anyone who was forced to join the movement, OTP witnesses were categorical that this was not the case.¹⁰³⁷ As detailed in this brief, OTP witnesses repeatedly denied the claim that children under 15 were members of the RFACPP. This is further compounded by P-2475's unreliable and contradictory account in relation to his (fabricated) claim that he was compelled to join the movement as a child soldier.

311. Nor is there any credible support for the allegation that Mr. Yekatom would have recruited any other non-military personnel into the movement. As stated by P-0888, many non-military personnel sought to join the movement through their own volition and Mr. Yekatom would not have been part of that recruitment.¹⁰³⁸

312. Furthermore, the OTP's assertion that Mr. Yekatom would have implemented an administrative

¹⁰³² [CAR-OTP-2065-3953](#) / [CAR-OTP-2122-9441](#); [CAR-OTP-2065-5122](#) / [CAR-OTP-2127-6330](#); [CAR-OTP-2065-5128](#); [CAR-OTP-2065-5132](#); [CAR-OTP-00001964](#) (See respective Defence's submission in ICC-01/14-01/18-2233-Conf-AnxA, items 375, 535, 291, 374). See also P-1647: T-195, p. 20, lines 15-19. See also [CAR-OTP-2065-1015](#) / [CAR-D29-0006-1325](#). See also videos [CAR-OTP-2065-1015](#) / [CAR-D29-0006-1325](#), [CAR-OTP-2065-1019](#) and [CAR-OTP-2065-1023](#) regarding the rudimentary state of the place in the bush (Defence's submission ICC-01/14-01/18-2233-Conf-AnxA, items 27, 193).

¹⁰³³ P-1786: T-198, p. 27, lines 6-8; P-1647: T-195, p. 35, lines 9-11; P-1647: [CAR-OTP-2050-0654-R02](#), para. 28; P-1839: T-170, p. 11, lines 6-11, p. 12, lines 5-6, p. 13, lines 3-5.

¹⁰³⁴ P-1647: T-194, p. 8, lines 5-8; T-195, p. 26, line 25 to p. 27, line 2; P-1786: T-197, p. 13, line 28 to p. 14, line 3; P-1839: T-170, p. 20, lines 3-9; T-172, p. 22, lines 5-6.

¹⁰³⁵ See [CAR-OTP-2065-0979](#), [00:00:05] to [00:00:45] / [CAR-OTP-2135-4428](#), p. 4430, lines 6-32; [CAR-OTP-2065-0846](#) / [CAR-OTP-2122-9437](#) (see Defence's submission ICC-01/14-01/18-2233-Conf-AnxA, pp. 55-57, item 45); [CAR-OTP-2065-2316](#), [00:01:08] to [00:03:17] / [CAR-D29-0006-1456](#), p. 1457, line 11 to p. 1458, line 4; P-0888: T-120, p. 31, lines 23-26.

¹⁰³⁶ P-1839: T-170, p. 13, lines 3-5, p. 11, lines 13-16.

¹⁰³⁷ P-1786: T-198, p. 27, lines 6-8; P-1647: T-195, p. 35, lines 9-11; P-1839: T-170, p. 11, lines 6-11, p. 12, lines 5-6; p. 13, lines 3-5.

¹⁰³⁸ P-0888: T-120, p. 64, lines 19-23. See also D29-5013: T-285, p. 43, lines 5-17, p. 44, lines 12-16, p. 50, lines 19-23. In this respect, even at its highest, the evidence only goes as far as establishing that Mr. Yekatom would have reached out to P-1786 – a FACA member – to see if he would join the movement and that P-1786 stated that he did not feel compelled to join the movement and furthermore, did not immediately join see P-1786: T-197, p. 21, lines 18-27. Enquiries made by Mr. Yekatom with P-1786 are consistent with the RFACPP's overall objectives to form a military movement formed of FACA members to defend the nation and restore peace and security.

structure, including a secretary to maintain, *inter alia*, member registrations has not been established. As confirmed by P-1647, there is no evidence that Mr. Yekatom ever participated in the registration of members or indeed that the practice would have been brought to his attention given that he was very rarely at Yamwara.¹⁰³⁹ According to P-1647, Ouandjio registered him by recording his name and confiscating his phone.¹⁰⁴⁰ This process was carried out due to Ouandjio's expressed fear of possible Seleka infiltrators.¹⁰⁴¹ In this regard, it is noted that the alleged registration of names by P-1839, by which it is claimed that Mr. Yekatom would have asked the witness to record up to 3,000 names whilst travelling along the axis, is markedly different from the registration process to which military and non-military personnel were subjected – including P-1839.¹⁰⁴² Noting that the witness offers no plausible explanation as to why the registration of members would have significantly differed it is reasonable to conclude that the names were recorded for an entirely different purpose.¹⁰⁴³

313. The extent of the alleged role [REDACTED] is also flawed. In this regard, it is recalled that [REDACTED] repeatedly overstated [REDACTED] role in the movement in attempt to bolster his false and unreliable claims.¹⁰⁴⁴ With specific regard to the [REDACTED] had claimed that [REDACTED] was [REDACTED] from new members.¹⁰⁴⁵ This is evidently contradicted by video material which depicts Ouandjio [REDACTED],¹⁰⁴⁶ which as stated above, is consistent with P-1647's testimony.

314. There is also no credible evidence that once members voluntarily joined, they were subsequently forced to remain in the movement. Allegations that members would have been covertly or forcibly drugged in order to remain in the movement have not materialised.¹⁰⁴⁷ When asked directly as to whether members could leave the movement, P-1839 was clear in [REDACTED] evidence that members were permitted to leave, and that those who felt they could not were hampered by personal reasons rather than any external restrictions.¹⁰⁴⁸ Given that P-1839's testimony pertains to events occurring during the crisis, it is evident that these 'personal reasons' were in reference

¹⁰³⁹ P-1647: T-195, p. 15, line 16 to p. 16, line 7.

¹⁰⁴⁰ P-1647: [CAR-OTP-2050-0654-R02](#), para. 30.

¹⁰⁴¹ [CAR-OTP-2065-3977](#), [00:00:13] to [00:01:45]/[CAR-OTP-2127-3686](#), lines 6-28; P-1647: T-195, p. 13, line 26 to p. 15, line 14.

¹⁰⁴² P-1839: T-170, p. 48, lines 4 to p. 50, line 10.

¹⁰⁴³ P-1839: T-174, p. 55, line 19 to p. 56, line 1; cf. also the registration as described by P-1839 see T-170, p. 16, line 7 to p. 17, line 2.

¹⁰⁴⁴ See Section II.C.2.b).

¹⁰⁴⁵ [REDACTED].

¹⁰⁴⁶ [CAR-OTP-2065-3977](#) [00:00:13] to [00:00:45] / [CAR-OTP-2127-3686](#), lines 7-12.

¹⁰⁴⁷ P-1647: T-195, p. 35, lines 13-15; P-1839: T-172, p. 75, lines 16-19, *contra* P-2475: T-129, p. 18, lines 23-24.

¹⁰⁴⁸ P-1839: T-170, p. 25, lines 17-27.

to individual struggles to desert the military movement prior to its conclusion.¹⁰⁴⁹ P-1839's response in this regard is also to be weighed against the witness' subsequent evidence that members would be sanctioned if they left the base without permission to go visit relatives or partners.¹⁰⁵⁰ There is marked distinction between an individual's ability to leave the movement entirely—reflecting the voluntary nature of their membership—and their ability to move freely in and out of a secured base that was vulnerable to attack by Seleka forces.¹⁰⁵¹

315. Indeed multiple witnesses testified to the fact that members were able to leave the movement for various reasons. One key example is following the death of Ouandjio, whereby his associates did not join Mr. Yekatom's unit,¹⁰⁵² opting instead to leave the movement as a whole.¹⁰⁵³ This included a number of individuals,¹⁰⁵⁴ including P-1786 who confirmed that he left the movement following a misunderstanding,¹⁰⁵⁵ and does not suggest that he faced difficulty in leaving. This is further verified by P-0888 who testified that 'numerous' members left the movement throughout the charged period for various reasons, including to set up or join alternative groups primarily in the Fatima district,¹⁰⁵⁶ or to return to their previous professions.¹⁰⁵⁷ As with P-1786, there is no evidence that these individuals encountered any issues upon leaving the movement or were prevented from doing so.

(e) Discipline

316. The OTP asserts that Mr. Yekatom was responsible for maintaining discipline across the movement,¹⁰⁵⁸ and in doing so, impermissibly seeks to rely on the RFACPP's disciplinary regime as a material fact to assert Mr. Yekatom's alleged essential contribution.

317. Moreover, even as a subsidiary fact, the OTP's claim is internally inconsistent, alleging both that he failed to enforce discipline and, at the same time, that he imposed severe punishments for disobedience.¹⁰⁵⁹ This contradictory position undermines the coherence of the OTP case regarding Mr. Yekatom's role in disciplinary matters and moreover, repeatedly misrepresents the movement's organisation and overarching shared objectives.

¹⁰⁴⁹ P-1839: T-170, p. 25, lines 17-27; *contra* [CAR-OTP-2065-3208](#), [00:01:02] to [00:01:25] / [CAR-OTP-2130-1138](#), p. 1140, lines 17-21.

¹⁰⁵⁰ P-1839: T-171, p. 72, lines 19-22.

¹⁰⁵¹ P-1839: T-173, p. 22, line 17 to p. 23, line 4.

¹⁰⁵² P-0888: T-122, p. 66, lines 17-18.

¹⁰⁵³ P-1786: [CAR-OTP-2058-0200-R03](#), para. 51; P-1647: T-196, p. 15, lines 9-14.

¹⁰⁵⁴ P-0888: T-122, p. 64, line 17 to p. 66, line 21.

¹⁰⁵⁵ P-1786: T-197, p. 91, lines 13-19.

¹⁰⁵⁶ P-0888: T-120, p. 32, lines 13-21, p. 33, lines 20-24; T-122, p. 66, line 27 to p. 67, line 5.

¹⁰⁵⁷ P-0888: T-120, p. 33, lines 5-10.

¹⁰⁵⁸ ICC-01/14-01/18-723-Conf, para. 376.

¹⁰⁵⁹ ICC-01/14-01/18-723-Conf, para. 376.

318. The OTP case suffers from the fact that it conflates the discipline of RFACPP members with the sanctioning and reporting of individuals who are not part of the movement to the gendarmerie, for abuses committed against the civilian population. The OTP likewise conflates the discipline of RFACPP members for minor military infractions with that imposed for more serious abuses.

319. However, in practice, while the discipline of RFACPP members was a recognised aspect within the movement, it did not fall under the sole responsibility of Mr. Yekatom. In this regard, the evidence clearly establishes that the sanctioning of RFACPP members was conducted by the section chiefs. Indeed, when explicitly asked in direct examination as to who was responsible for sanctioning members, OTP witnesses reiterated that it was the section chiefs that determined whether to discipline a member and the applicable sanction. For example, P-1786 confirmed that [REDACTED] to patrol the perimeter of Yamwara base *‘pour pouvoir discipliner [...] les éléments désordonnés qui pouvaient aller voler et piller’*.¹⁰⁶⁰ In doing so, [REDACTED] members would face sanctions during these patrols and for determining the appropriate disciplinary measures in furtherance of the overarching objective to protect the civilian population.¹⁰⁶¹

320. Accordingly, given that disciplinary measures were within the prerogative of section chiefs, there is no reasonable basis to infer any enforceable cross-discipline among members across the units. This is further clarified by P-1647 who testified that exceptionally, section chiefs may consult with their superiors in relation to more serious violations.¹⁰⁶² Although P-1647 did not immediately specify who he meant by the term ‘superior’, he had previously used the similar term ‘chief’ in the context of a disciplinary matter in reference to Sette, the Comzone in Mbaïki.¹⁰⁶³

321. P-1839 further corroborates the accounts of P-1647 and P-1786, attesting to the fact that section chiefs would enforce discipline in specific contexts,¹⁰⁶⁴ further clarifying that *‘chaque chef a leur manière de punir leurs éléments.’*¹⁰⁶⁵ As such, P-1839’s statement that [REDACTED] would not have observed Mr. Yekatom sanctioning anyone ‘for whatever reason’¹⁰⁶⁶ should be understood in light of [REDACTED] position that such disciplinary decisions and actions were managed by section chiefs. By the same token, P-1839’s emphatic denial of any sanctions against RFACPP members for crimes against Muslims¹⁰⁶⁷ should be considered in the context of [REDACTED]

¹⁰⁶⁰ [REDACTED].

¹⁰⁶¹ [REDACTED].

¹⁰⁶² P-1647: T-195, p. 31, lines 21-27.

¹⁰⁶³ P-1647: T-194, p. 64, lines 4-5.

¹⁰⁶⁴ P-1839: T-173, p. 24, lines 10-15.

¹⁰⁶⁵ P-1839: T-173, p. 25, lines 21-25, see also line 12-14.

¹⁰⁶⁶ P-1839: T-171, p. 72, lines 6-8.

¹⁰⁶⁷ P-1839: T-171, p. 72, lines 1-5.

role as [REDACTED] reasonably would not have been made privy to disciplinary actions taken either by section chiefs, their relevant superiors or indeed by Mr. Yekatom. This is particularly relevant given the fact that there is concrete evidence that: (i) Mr. Yekatom was involved in the discipline of members who either intended to harm the civilian population or carried out such acts,¹⁰⁶⁸ and (ii) that section chiefs did sanction members who presented a threat to the civilian population as confirmed by P-1647 and P-1786.¹⁰⁶⁹

322. More specifically, allegations that RFACPP members were violently sanctioned misrepresents the evidence in this regard. For example, following questions by the Presiding Judge, P-1839 was clear that disciplinary measures ‘*qu’on appelle ça lamda chez nous. Si vous n’obéissez pas, on vous fait mettre la tête sur le sol et les deux mains sur le dos; ou soit, on vous dit de mettre vos doigts... un de vos doigts sur le sol et vous tournez rond; soit vous allez transporter un des éléments au dos et vous allez faire le tour du terrain; ou soit, vous vous faites des pompes.*’¹⁰⁷⁰ These measures were not however issued during the training of members.¹⁰⁷¹ Other sanction types included beatings or whippings,¹⁰⁷² and whilst the witness did not speak to the severity of this punishment, P-1839 confirms that even with such measures, ‘many’ members continued to flout the rules.¹⁰⁷³

323. Similarly, the OTP’s reliance on P-0954, P-1839, P-1339, P-2475, P-1858’s (and to a limited extent P-0974’s) accounts of the single alleged ‘Seda incident’¹⁰⁷⁴ to depict violent punishments is equally unpersuasive, noting that the witnesses were not present during the incident,¹⁰⁷⁵ rely on third hand accounts which did not provide all the details and/or otherwise remain anonymous,¹⁰⁷⁶ and moreover, provide objectively incorrect facts concerning basic details such as the location of the incident, the identities of the victims, the number of fatalities, and the alleged presence of MINUSCA.¹⁰⁷⁷

324. In contrast, both P-1647 and P-0888 describe, both as first and second hand accounts respectively, the incident in which it is alleged that Mr. Yekatom would have fatally wounded two RFACPP

¹⁰⁶⁸ See P-1647: T-194, p. 52, lines 5-10.

¹⁰⁶⁹ See below.

¹⁰⁷⁰ P-1839: T-170, p. 25, lines 4-13; see also P-1647: T-194, p. 52, lines 9-101 *contra* OTP’s reliance on P-1839 to establish violent sanctions see e.g. ICC-01/14-01/18-723-Conf, para. 376.

¹⁰⁷¹ P-1647: T-195, p. 20, lines 15-19.

¹⁰⁷² P-1786: [CAR-OTP-2058-0200-R03](#), para. 30; [CAR-OTP-00000843](#), p. 2.

¹⁰⁷³ P-1839: T-173, p. 23, line 13 to p. 24, line 9.

¹⁰⁷⁴ ICC-01/14-01/18-723-Conf, para. 369. Noting that no further evidence was called in relation to the allegation that Mr. Yekatom directly ‘slit an element’s throat for having a cell-phone against his instruction’.

¹⁰⁷⁵ P-1839: T-174, p. 47, line 24; T-171, p. 80, lines 14-15; P-1339: T-159, p. 33, lines 16-18; P-1858: [CAR-OTP-2063-0050-R04](#), para. 88; P-0954: T-168, p. 46, lines 18-19; P-0974: [CAR-OTP-2058-0165-R01](#), para. 94.

¹⁰⁷⁶ P-1839: T-174, p. 48, lines 4-7; P-1839: T-171, p. 80, lines 14-16; P-1339: T-159, p. 34, lines 17-19; [CAR-OTP-2063-0050-R04](#), para. 88; P-0954: T-168, p. 46, lines 18-19.

¹⁰⁷⁷ See below.

members (namely Oscar Seda and Fadal)¹⁰⁷⁸ and injured P-1647.¹⁰⁷⁹ The incident which is stated to have taken place at the PK9 bridge,¹⁰⁸⁰ on 2 May 2014 (i.e. after the charged period),¹⁰⁸¹ concerned an attempt by Mr. Yekatom and Beina to prevent the looting of farm animals by RFACPP members,¹⁰⁸² following a direct complaint by the local farmer to Beina and Mr. Yekatom.¹⁰⁸³ In this regard, Beina's initial interactions with the culpable members was limited to an attempt to return the goods and was not – as subsequently mischaracterised by the OTP - a disciplinary measure at that stage.

325. In seeking to enact this return of goods, Beina is described as approaching the culpable members who retaliated by attacking Beina's driver and threatening to cause further harm to Beina and the civilian population.¹⁰⁸⁴ The culpable members subsequently threatened Mr. Yekatom,¹⁰⁸⁵ and, as asserted by P-0888, based on information received directly from Beina and P-1647,¹⁰⁸⁶ and correctly understood by the Presiding Judge, resulted in a duel, which took place outside,¹⁰⁸⁷ between Mr. Yekatom and other armed military personnel.¹⁰⁸⁸

4. Orders issued by Mr. Yekatom were legitimate

326. To further the crisis effort, Mr. Yekatom issued orders to his unit in order to meet the legitimate shared goals of the RFACPP. These specific orders focused on three core aspects: (i) orders to target Seleka forces; (ii) orders not to target the civilian population including Muslims, and (iii) orders to provide security for areas abandoned by Seleka forces.¹⁰⁸⁹

a) Specificity of orders

327. The clarity and specificity of Mr. Yekatom's instructions to RFACPP members are directly

¹⁰⁷⁸ P-1647: [CAR-OTP-2050-0654-R02](#), para. 56; P-0888: T-122, p. 48, lines 4-9; *contra* P-1858: [CAR-OTP-2063-0050-R04](#), para. 88.

¹⁰⁷⁹ P-1647: [CAR-OTP-2050-0654-R02](#), paras. 53-60; P-0888: T-120, pp. 45-50; *contra* P-0954: [CAR-OTP-2048-0171-R03](#), para. 87; P-0954: T-168, p. 50, lines 2-27; P-1858: [CAR-OTP-2063-0050-R04](#), para. 88 *contra* P-1839: T-174, p. 47, lines 25-27; P-2475: T-130, p. 50, lines 14-20.

¹⁰⁸⁰ P-1647: [CAR-OTP-2050-0654-R02](#), para. 53; P-0888: T-120, p. 47, lines 16-17; *contra* P-1339: T-159, p. 35, lines 8-11.

¹⁰⁸¹ P-1647: [CAR-OTP-2050-0654-R02](#), para. 53; [CAR-OTP-2053-1341-R01](#).

¹⁰⁸² P-0888: T-120, p. 47, lines 10-15.

¹⁰⁸³ P-0888: T-120, p. 47, lines 16 to p. 48, line 4.

¹⁰⁸⁴ P-0888: T-120, p. 48, lines 8-20; T-122, p. 51, line 25 to p. 52, line 10.

¹⁰⁸⁵ P-0888: T-120, p. 48, line 27 to p. 49, line 7; T-122, p. 49, lines 14-26.

¹⁰⁸⁶ P-0888: T-120, p. 34, lines 4-9. The OTP's position that P-0888's account is second-hand is undermined by the fact that it proceeded to develop this account with the witness on the same basis, see P-0888: T-122, p. 50, lines 11-13. Moreover, the OTP did not seek to further question P-1647 on the same incident despite the scheduling of P-1647's testimony after P-0888's testimony and noting that P-1647 was a direct witness to the incident.

¹⁰⁸⁷ P-0888: T-122, p. 53, lines 19-27; P-0888: T-122, p. 54, lines 18-21; *contra* P-2475: T-130, p. 49, lines 15-17; T-133, p. 37, lines 3-4.

¹⁰⁸⁸ P-0888: T-120, p. 49, lines 7-10, p. 50, line 17 to p. 51, line 2; *contra* P-2475: T-130, p. 50, lines 16 to p. 51, line 5, lines 19-24.

¹⁰⁸⁹ See Section V.

documented through his own statements, as captured in contemporaneous video footage, and further corroborated by testimonial evidence regarding his conduct.

i) Order to target Seleka bases and forces

328. The order to target Seleka forces and rebel leaders can be seen across various recordings captured immediately after the RFACPP's involvement in the 5th December Operation. For example, CAR-OTP-2065-2328 is a direct record of Mr. Yekatom informing other RFCAPP members that he was informed that international forces would shortly disarm rebel chiefs from Chad and Sudan and that it was therefore necessary for the movement to capture the leaders so that they did not escape prior to disarmament.¹⁰⁹⁰ The recording—captured at night—provides a rare and direct depiction of both the instruction and its underlying rationale at the time.

329. Similarly, the tenor of Mr. Yekatom's orders was captured in public footage in an Al-Jazeera broadcast wherein he states that the movement has 'no problems with the Muslims. They are our brothers. We've lived with them for a long time. We only have a problem with Djotodia and his mercenaries'.¹⁰⁹¹

330. The clarity of the order to target Seleka bases and forces is also corroborated by the testimony of insider witnesses. P-1647 affirms that he often heard the same order as depicted in the Al-Jazeera broadcast separately from Mr. Yekatom,¹⁰⁹² corresponding to his prior record statement where he expressly informed OTP investigators that members were 'instructed to fight the enemy and not the civilians'.¹⁰⁹³

331. Indeed, as attested by P-0888, it was well understood by others within the RFACPP that Mr. Yekatom's 'objective was to fight against the Seleka',¹⁰⁹⁴ and the misrepresentation that all 'anti-balaka' equate to Christians or that all Seleka equate to Muslims was manufactured by the media and not instituted by the movement.¹⁰⁹⁵ This is also supported by a media recording in which Keapex Junior (Beina's brother) reiterates that the target is the Seleka and not the Muslim civilian population employing the very same terminology as that used by Mr. Yekatom.¹⁰⁹⁶ Moreover, Mr. Yekatom's specific order to target the Seleka forces and not the civilian population corresponded to the same orders as issued by Ouandjio and indeed, Beina.¹⁰⁹⁷

¹⁰⁹⁰ [CAR-OTP-2065-2328](#) / [CAR-OTP-2127-3639](#), lines 25, 55.

¹⁰⁹¹ [CAR-OTP-2107-1191](#), [00:00:00] to [00:00:30] / [CAR-D29-0006-0933](#), p. 0933, lines 6-12; P-1193: T-126, p. 77 lines 19-22.

¹⁰⁹² P-1647: T-196, p. 20 lines 11-16.

¹⁰⁹³ P-1647: [CAR-OTP-2050-0654-R02](#), paras. 34-35.

¹⁰⁹⁴ P-0888: T-122, p. 25, lines 6-7.

¹⁰⁹⁵ P-0888: T-122, p. 25 lines 6-16.

¹⁰⁹⁶ [CAR-OTP-2112-1378](#), [00:00:36] to [00:00:50]/[CAR-D29-0006-0759](#), lines 7-15; P-1647: T-196 p. 17 line 5 to p. 18 line 13; and p. 21 line 26 to p. 22 line 1.

¹⁰⁹⁷ P-1647: T-196, p. 20 lines 17-23; and p. 21 lines 14-19; P-1839: T-174, p. 87 lines 6-9.

332. In this regard, following the order to target the Seleka as enemy forces, RFACPP members were instructed on how to identify and distinguish Seleka forces and bases. [REDACTED] confirms that the movement collectively knew the location of the Seleka bases and were instructed to identify armed Seleka forces located outside.¹⁰⁹⁸

333. Relatedly, RFACPP members were also instructed on how to identify Seleka forces at checkpoints around Yamwara school to secure the base,¹⁰⁹⁹ and at established checkpoints along the PK9-Mbaïki axis.¹¹⁰⁰ As set out further in this brief, the instructions ensured that the local population was not targeted and that the measures were not indiscriminately applied.¹¹⁰¹ It is on this basis, for example, that members located at the Yamwara checkpoints were instructed, in the presence of Mr. Yekatom and RFACPP members, to inform individuals present in the Boeing neighbourhood to not to search or disturb individuals travelling in the direction of the airport towards the camp for both Christian and Muslim displaced persons.¹¹⁰² By extension, RFACPP members were also instructed not to set up illegal checkpoints or to seize illegal taxes.¹¹⁰³ As described by several witnesses, the checkpoints were a necessary security measure.¹¹⁰⁴ In particular, the identification of Seleka forces at the various checkpoints was necessary in light of the fact that Seleka forces would attempt to infiltrate and/or use informants to attack the RFACPP,¹¹⁰⁵ noting that they remained an enemy force throughout the charged period.¹¹⁰⁶

ii) Order not to harm the civilian population including Muslims

334. Having instructed RFACPP members to target Seleka forces, Mr. Yekatom ensured the boundaries of this directive were unmistakably clear and that the civilian population were not harmed. This is illustrated not only by the direct orders to target the Seleka forces, as described above, but also by direct orders to protect and not harm or harass the civilian population, as attested by P-1647,¹¹⁰⁷ and captured in real time by P-1558,¹¹⁰⁸ who confirmed that, following an incident whereby an element who had attempted to sell the homes of Muslims who had left Pissa was arrested by Mr. Yekatom and made to work in his close protection as a means of controlling him.

¹⁰⁹⁸ [REDACTED].

¹⁰⁹⁹ See Section IV. B.2.a).i).

¹¹⁰⁰ See Section IV. B.3.a).i).

¹¹⁰¹ See Section IV. B.2.a).i).

¹¹⁰² [CAR-OTP-2065-2085](#), [00:00:25] to [00:00:30] / [CAR-OTP-2127-3605](#), p. 3607, lines 12-16.

¹¹⁰³ P-1647: [CAR-OTP-2050-0654-R02](#), para. 52.

¹¹⁰⁴ P-1839: T-174, p. 32, lines 11-15; P-0888: T-121, p. 51, lines 13-18.

¹¹⁰⁵ P-1839: T-173, p. 20, lines 14-19; P-0888, [CAR-OTP-2050-0654-R02](#), para. 36.

¹¹⁰⁶ [CAR-D29-0013-0267](#); see also ICC-01/14-01/18-2561-Conf-AnxA (item #8)

¹¹⁰⁷ P-1647: [CAR-OTP-2050-0654-R02](#), para. 34.

¹¹⁰⁸ P-1558: [CAR-OTP-2105-0195-R01](#), para. 26.

335. As well as cautioning members to ensure the protection of the population,¹¹⁰⁹ the evidence reveals the numerous concrete measures undertaken by Mr. Yekatom to ensure that the activities of the RFACPP did not harm the local population. P-1647 explained that RFACPP members undertook measures to ensure that the surrounding civilian population was not in fear as a result of the movement's activities, including for example, conducting military training exercises without firing live ammunition or blanks,¹¹¹⁰ or taking particular routes - even where inefficient - so as not to unnecessarily frighten the civilian population.¹¹¹¹ P-1647 further confirmed that Mr. Yekatom prohibited non-military members within his unit from issuing any orders or instructions, thereby eliminating or reducing the risk that such directives might, whether intentionally or unintentionally, result in harm to the civilian population.¹¹¹²

336. The application of the order to not harm the civilian population is also demonstrated by Mr. Yekatom's individual acts and the consistency of his directive that Muslims were not the enemies.¹¹¹³ This was repeated before RFACPP members as well as civilians,¹¹¹⁴ to prevent conflict amongst them and to reinforce that the Muslim population could rely on the RFACPP for support. The Chamber has received evidence that not only did Mr. Yekatom not 'chase away the Muslims',¹¹¹⁵ but that the local Muslim population was able to rely on this protection. D29-5014 provided a personal account in which she described being targeted by the local community in Castel near the PK9 bridge. Fearing violent retaliation, D29-5014 describes the intervention by Mr. Yekatom,¹¹¹⁶ whereby he controlled the local crowds, reassuring the witness that he was not '*l'ennemi des musulmans. Nous nous sommes levés pour combattre la Séléka, et non musulmans. Nous sommes venus pour sauver les musulmans*'.¹¹¹⁷

337. D29-5014's account of Mr. Yekatom's protection of the Muslim community is supported by P-0888,¹¹¹⁸ and further reflected in similar examples including the request from the head of the Peuhl traders in Kapou who sought RFACPP's assistance with regard to the fraught situation

¹¹⁰⁹ See also P-1647: [CAR-OTP-2050-0654-R02](#), para. 34.

¹¹¹⁰ P-1647: T-195, p. 20 line 20 to p. 21 line 26; 21, lines 7-16; [CAR-OTP-2065-1015](#) [00:00:00] to [00:01:40] / [CAR-D29-0006-1325](#), lines 4-16. See also [CAR-OTP-2065-1023](#) (2233-Conf-AnxA, p.37, item 27 for submissions).

¹¹¹¹ [CAR-OTP-2065-0396](#) [00:00:04] to [00:00:10] / [CAR-OTP-2122-2284](#), p. 2286, lines 4; P-0876: T-086, p. 55, lines 23-25.

¹¹¹² P-1647: T-195, p. 40, lines 19-21. See also [CAR-OTP-2065-3220](#), [00:00:46] to [00:03:20] / [CAR-OTP-2127-3668](#), lines 12-23 in which Mr. Yekatom distinguishes between how the RFACPP movement operates in relation to military objectives versus other military groups including those led by Yagouzou.

¹¹¹³ P-1193: T-126, p. 77 lines 19-22.

¹¹¹⁴ [CAR-OTP-2107-1191](#), [00:00:19] to [00:00:29] / D29-0006-0933, lines 6-12. See also P-2084: T-233, p. 12, lines, 6-15; P-1813: [CAR-OTP-2069-0035-R02](#), para. 54; P-0888: T-122, p. 27, lines 11-28.

¹¹¹⁵ P-0888: T-122 p. 25, line 6; see also pp. 22-26; P-2084: T-234, p. 76, lines 1-5.

¹¹¹⁶ D29-5014: T-257, p. 17, line 17 to p. 20, line 8.

¹¹¹⁷ D29-5014: T-257, p. 18, lines 2-4, 23-25, p. 19, lines 3-5, 28 to p. 20, line 1; p. 35, lines 12-18.

¹¹¹⁸ P-0888: T-122, p. 25, line 6.

amongst the local population.¹¹¹⁹ Moreover, as described by D29-5014,¹¹²⁰ following the specific order and objective to prevent harm to the local population, the Muslim community in turn directly sought out his assistance.

338. This significant account directly challenges the credibility of the allegation that Mr. Yekatom issued orders to kill Muslims—an allegation rooted in unreliable testimony from either uninformed witnesses or those with a specific agenda against Mr. Yekatom. Whilst the specific alleged orders concerning the charged crimes are dealt with in Section V, it is apparent that the evidence concerning alleged general orders to kill Muslims is equally unpersuasive.

339. For example, the OTP relies on P-1839 to assert that Mr. Yekatom would have issued orders to torture and kill Muslims including women and children,¹¹²¹ in reference to the alleged killing of a Peuhl baby and mother and a Seleka soldier in Sekia.¹¹²² However, the evidence in relation to both allegations does not establish that Mr. Yekatom issued any such order to kill Muslims. First, in relation to the alleged killing of the Peuhl baby and mother, P-1839 is consistent that this is a rumour that [REDACTED] had been told in relation to an alleged event prior to [REDACTED] joining the group and had informed OTP investigators the same in 2017.¹¹²³ Moreover, P-1839 was categorical in [REDACTED] evidence that [REDACTED] had never witnessed Mr. Yekatom – or indeed Beina or Ouandjio – issue an order to kill Muslim children.¹¹²⁴ Second, the alleged order to kill a Seleka Christian soldier does not fit the OTP’s narrative that Mr. Yekatom would have issued orders to the movement to kill Muslims noting further that the witness provides no evidence which would establish the basis for [REDACTED] assertion that the order would have been issued by Mr. Yekatom to [REDACTED].¹¹²⁵ Indeed, [REDACTED] had never heard Mr. Yekatom state that unarmed Muslims should be killed.¹¹²⁶ Indeed, P-1839 clearly stated that the order was ‘if the enemy attacks, we defend ourselves’,¹¹²⁷ and that by enemy [REDACTED] meant the Seleka.¹¹²⁸ P-1839 clarified that the term enemy extended to ‘*c'est-à-dire que chrétiens ou armés ou Séléka sont pareils*’,¹¹²⁹ and indisputably stated that [REDACTED] had never heard Mr. Yekatom either directly or indirectly issue an order to attack Muslim civilians who were not

¹¹¹⁹ See also D29-5014: T-257, p. 21, lines 22 to p. 22, line 1. P-1647: [CAR-OTP-2050-0654-R02](#), para. 63.

¹¹²⁰ D29-5014: T-257, p. 29, line 14 to p. 30, line 11.

¹¹²¹ ICC-01/14-01/18-723-Conf, para. 374, fn. 972.

¹¹²² P-1839: T-171, p. 25, line 17 to p. 31 line 17.

¹¹²³ P-1839: T-171, p. 29 lines 2-12; T-174 p. 11 line 18 to p. 12, line 12.

¹¹²⁴ P-1839: T-174, p. 81 line 20 to p. 82 line 3 *contra* P-1339’s evolving iterations on this issue see P-1339: T-152, p. 71, lines 10-12; T-154, p. 41, lines 1-3; T-160, p. 8, line 28 to p. 9, line 2.

¹¹²⁵ P-1839: T-171, p. 27, lines 26-28.

¹¹²⁶ P-1839: T-174, p. 86 lines 16-22, p. 88 lines 20-25.

¹¹²⁷ P-1839: T-174, p. 82 lines 5-13; and p. 83 lines 3-9.

¹¹²⁸ P-1839: T-174, p. 79, lines 21-23.

¹¹²⁹ P-1839: T-174 (FRA), p. 86 lines 1-5; T-174 (ENG), p. 82, lines 12-14.

armed.¹¹³⁰

340. The OTP similarly relies on P-0954 for the same assertion.¹¹³¹ Again, notwithstanding the fact that each of the alleged examples relied on by the OTP do not involve the killing or torture of Muslims,¹¹³² it has not been demonstrated that P-0954 ever personally saw or heard Mr. Yekatom issue orders to kill Muslims or that he would have been told the same by RFACPP members. Indeed, each and every allegation raised by P-0954 concerns second hand information,¹¹³³ often stemming from anonymous hearsay accounts,¹¹³⁴ and/or local media reports.¹¹³⁵ P-0954's propensity to lead false and exaggerated claims against Mr. Yekatom stems directly from his animosity towards Mr. Yekatom,¹¹³⁶ and is driven by self-serving interest to [REDACTED].¹¹³⁷ It is this potent blend of motives that taints P-0954's objectivity when describing the alleged acts and conduct of Mr. Yekatom. This is reflected throughout P-0954's attempts to supplement his testimony with incriminating flourishes – ranging from small details concerning, for example, his alleged claim that Mr. Yekatom would have changed his nickname to 'Rambo' in 2013/2014 seemingly to conjure the image of a violent character¹¹³⁸ – to more serious claims regarding threats to FACA commanders which are debunked by other numerous witnesses.¹¹³⁹

341. The OTP also relies on both P-1339 and P-2475 for the erroneous assertion that Mr. Yekatom issued orders for the destruction and looting of Muslim properties.¹¹⁴⁰ As set out in this brief, P-1339's account is internally inconsistent as to whether the RFACPP did in fact destroy Muslim homes, and more pertinently does not establish that Mr. Yekatom provided such an order to do so. For example, P-1339 states that Mr. Yekatom said to destroy the houses of the Muslims and the only example provided is in relation to the destruction of the Boeing Mosque,¹¹⁴¹ which the witness himself concedes was destroyed by civilians.¹¹⁴² Further, P-1339's false claim is also contradicted by the evidence of both P-1647 and P-1786 who confirm that RFACPP members did not occupy any Muslim houses, and indeed were involved in preventing the destruction of Muslim

¹¹³⁰ P-1839: T-174, p. 82, line 25 and p. 83, lines 1-3; P-1839: T-174, p. 84, lines 24-25 and p. 85, lines 1-2.

¹¹³¹ ICC-01/14-01/18-723-Conf, para. 374, fn. 972.

¹¹³² [CAR-OTP-2048-0171-R02](#), paras. 81-88. See Section IV. B.2.

¹¹³³ P-0954: T-168, p. 28, lines 7-9; T-168, p. 48, lines 14-15; [CAR-OTP-2048-0171-R03](#), para. 87.

¹¹³⁴ P-0954: [CAR-OTP-2048-0171-R03](#), paras. 82-85; P-0954: T-168, p. 37, line 11 to p. 38, line 12.

¹¹³⁵ P-0954: T-168, p. 32, lines 3-6.

¹¹³⁶ P-0954: [CAR-OTP-2048-0171-R03](#), para. 91.

¹¹³⁷ P-0954: T-112, p. 3, lines 6-18; T-168, p. 68, lines 18-26, p. 69, lines 1-13. See also ICC-01/14-01/18-1333-Conf-Red2, paras. 2, 4, 6.

¹¹³⁸ P-0954: T-168, p. 41, lines 7-22; p. 42, lines 14 to p. 43, lines 24. See also P-1786: T-198, p. 4, lines 22-24.

¹¹³⁹ P-0954: [CAR-OTP-2048-0171-R03](#), para. 92; [CAR-OTP-00000303-R01](#), p. 000013.

¹¹⁴⁰ ICC-01/14-01/18-723-Conf, para. 374, fn. 972.

¹¹⁴¹ P-1339: T-152, p. 71, lines 25-27.

¹¹⁴² See Section IV. B.1.f).

homes which had been vacated.¹¹⁴³

iii) Order to secure areas vacated by Seleka forces

342. The OTP's assertion that Mr. Yekatom ordered the killing of Muslims is further contradicted by his explicit directives to restore security in areas abandoned by Seleka forces, specifically to protect Muslims from the local non-Muslim population, and 'anti-balaka' groups.

343. In this regard, and in the aftermath of the Seleka's dismantling of law enforcement, the evidence demonstrates that Mr. Yekatom issued instructions which would restore and facilitate the gendarmerie. This was to prevent the commission of crimes against the civilian population and/or arrest suspected perpetrators of such acts - which in turn allowed for the return of municipal authorities.¹¹⁴⁴ Mr. Yekatom is described as repeatedly being involved in the apprehension of 'anti-balaka' groups,¹¹⁴⁵ and issuing public warning against the commission of crimes by 'anti-balaka' groups against the civilian population, and particularly the Muslim population.¹¹⁴⁶

344. As attested by several witnesses, the directive was to coordinate with,¹¹⁴⁷ and assist the work of, the gendarmerie¹¹⁴⁸ in the latter's attempts to restore order along the PK9-Mbaïki axis.¹¹⁴⁹ This included coordinating the return of the gendarmerie from the bush to their posts,¹¹⁵⁰ and assisting with restoring weapons to the gendarmerie.¹¹⁵¹ Indeed, P-1839 provided a definitive account indicating that it was Mr. Yekatom who had called upon the gendarmerie to resume their duties,¹¹⁵² which was commended by the General Director of the gendarmerie.¹¹⁵³

345. Additionally, to advance the movement's shared objective of protecting the population from harm, members were instructed to apprehend suspected perpetrators and transfer them to the gendarmerie and/or international forces – including MISCA - where available.¹¹⁵⁴ This action was necessary to facilitate the gendarmerie's work, particularly given the looting of their vehicles by

¹¹⁴³ P-1647: T-196, p. 9, lines 24-26; p. 15 line 25 to p. 16 line 27; and see also, p. 21 lines 21-23; and P-1786: p. 42 line 6 to p. 43 line 7; P-0876: T-086, p. 67, lines 3-9.

¹¹⁴⁴ P-2084: T-234 p. 82, line 28 to p. 83, line 1; [CAR-OTP-2094-0968-R02](#), para. 81. See also, P-0888: T-121, p. 48 line 19 to p. 49 line 6.

¹¹⁴⁵ D29-5015: T-254, p. 55, line 20 to p. 56, line 12; P-1813: T-182, p. 48, line 4 to p. 49, line 17; [CAR-D29-0002-0086](#).

¹¹⁴⁶ P-1595: [CAR-OTP-2135-2397](#), para. 78; T-106, p. 8, lines 8-15; P-2041: T-230, p. 9, lines 2-27; D29-5012: T-294, p. 11, line 22 to p. 12, line 3. See also [CAR-D29-0002-0086](#).

¹¹⁴⁷ P-0888: T-121, p. 52 line 24 to p. 53 line 4.

¹¹⁴⁸ P-1647: T-195, p. 52 line 24 to p. 53 line 4.

¹¹⁴⁹ P-1647: T-195, p. 56 lines 9-17; [CAR-OTP-2050-0654-R02](#), para. 44.

¹¹⁵⁰ P-1647: T-195, p. 56 lines 13-17; P-1839: T-174, p. 34 line 25 to p. 36 line 3; P-0888: T-122, p. 15, lines 18-24; P-2084: T-234 p. 82, line 28 to p. 83, line 1; [CAR-OTP-2094-0968-R02](#), para. 82.

¹¹⁵¹ P-0888: T-122, p. 17 line 8-2; see also, P-1558: [CAR-OTP-2105-0195-R01](#), para. 30.

¹¹⁵² P-1839: T-174, p. 34 line 25 to p. 36 line 3.

¹¹⁵³ [CAR-OTP-2055-2610](#), [00:01:47] to [00:02:10] / [CAR-OTP-2122-2271](#), p. 2275, line 62 to p. 2276, line 75.

¹¹⁵⁴ P-0888: T-122, p. 17, lines 23-25; P-1647: [CAR-OTP-2050-0654-R02](#), para. 67 and 84; P-1193: T-126, p. 76, lines 13-25; [CAR-D29-0002-0086](#).

Seleka forces.¹¹⁵⁵ In carrying out these directives, RFACPP members were deployed to areas susceptible to violent conflicts between local Muslim and non-Muslim populations, further underscoring the legitimacy of the direction. For example, P-1647 describes his posting to Kapou due to the ethnic conflict between the local civilian population.¹¹⁵⁶ Of note, whilst the witness P-1647 was specifically assigned to protect the Peuhl community that had fled violence in Boali, this posting also had broader community impacts, as it allowed for the continued transport of meat from the Kapou meat market to Bangui.¹¹⁵⁷

346. In instances where the gendarmerie had not yet returned to their posts or were otherwise unable to manage suspected perpetrators, the RFACPP members were instructed to sanction ‘anti-balaka’ elements who were not part of the RFACPP. P-1647 provides a first-hand account of sanctioning leaders of ‘anti-balaka’ groups that had erected illegal checkpoints.¹¹⁵⁸

347. The veracity of the first-hand testimony, demonstrates both the specificity and legitimacy of the orders issued by Mr. Yekatom, noting that these were not simply instructions for public consumption.

b) Execution of orders

348. In contrast to P-1339’s testimony,¹¹⁵⁹ and considering the specific composition and structures within the RFACPP, there is no reliable evidence demonstrating the existence of a centralized reporting system for the execution of orders. The notion that Mr. Yekatom would have received ‘detailed reports’ from either Beina or Ouandjio is undermined by P-1339’s own evidence that he was not privy to such meetings. It is also contradicted by the evidence of P-1839 who testified to the fact that Ouanijio himself was undertaking acts without reporting to Mr. Yekatom and therefore logically would not be reporting to Mr. Yekatom with regard to other members.

349. The absence of reporting, or instances of misreporting, of incidents involving harm to the civilian population by RFACPP members is also evident in relation to events alleged by the OTP. For example, as set out in Section IV.B.2.b), there is no evidence that the death of Saint Cyr Lapo N’Gomat was ever reported to Mr. Yekatom, noting further that no other insider witness, when pressed by the OTP, had any knowledge of this killing. Similarly, whilst the OTP sought to rely on video material which allegedly depicts Maidanda threatening to indiscriminately kill all

¹¹⁵⁵ P-1823: [CAR-OTP-2063-0369-R02](#), para. 19; [CAR-OTP-2055-2610](#), [00:00:21] to [00:01:06] / CAR-2107-6906, p. 6908, lines 4-28.

¹¹⁵⁶ P-1647: [CAR-OTP-2050-0654-R02](#), para. 65.

¹¹⁵⁷ P-1647: [CAR-OTP-2050-0654-R02](#), para. 65; P-1647: T-195, p. 53 lines 7-17.

¹¹⁵⁸ P-1647: T-195, p. 50 line 13 to p. 51 line 17.

¹¹⁵⁹ P-1339: T-152, p. 19, lines 3-6.

Muslims,¹¹⁶⁰ P-1839, P-1786 and P-1647 are resolute in their responses that: (i) they did not hear similar rhetoric whilst part of the RFACPP movement,¹¹⁶¹ (ii) it is exceptional to hear such rhetoric from trained military personnel,¹¹⁶² and (iii) the individuals depicted in the videos appeared to be smoking cannabis and/or were being sensationalist.¹¹⁶³

350. This is of course not to say that there was no reporting of incidents concerning harm or threats to the civilian population by RFACPP members – as detailed above, members who failed to adhere to the principle of distinction were subject to disciplinary action under the responsibility of section chiefs. However, where an incident was brought to the attention of Mr. Yekatom, the evidence establishes that he would undertake the relevant enquiries and ensure that the appropriate measures were undertaken or attempted. For example, when operating along the PK9-Mbaiki axis, Mr. Yekatom would receive calls from MISCA in relation to the alleged criminal conduct of individuals purporting to be a part of the RFACPP.¹¹⁶⁴ As described by P-1813, these individuals were in actual fact either ‘anti-balaka’ or civilians from the local community.¹¹⁶⁵ However, despite this, Mr. Yekatom still followed up with each enquiry from MISCA, and in doing so, ensured that he acted in coordination with the work of the international and local authorities.¹¹⁶⁶ Moreover, the evidence shows that Mr. Yekatom was categorical in his speeches to the public that the RFACPP was not ‘anti-balaka’, and moreover, that the ‘anti-balaka’ could not join his movement during the charged period.¹¹⁶⁷

5. Mr. Yekatom intended to restore peace and security

351. Mr. Yekatom's extensive efforts to restore peace and promote reconciliation are documented throughout this brief. Furthermore, the evidence demonstrates that these efforts were undertaken well before the cessation of hostilities and debunks any narrative that Mr. Yekatom's objective was violent bloodshed. As described by P-0884, Mr. Yekatom was one of the first to reconcile with Seleka forces, namely Captain Souleymane,¹¹⁶⁸ with CDRs establishing contact between the

¹¹⁶⁰ [CAR-OTP-2065-3188](#) / [CAR-OTP-2107-1547](#), see P-1786: T-197, p. 80, lines 3-9; P-1193: T-124, p.50, lines 12-14; [CAR-OTP-2065-3172](#) / [CAR-OTP-2118-5654](#), see P-1647: T-194, p. 46, lines 3-8.

¹¹⁶¹ P-1647: T-194, p. 50, lines 15-19; P-1786: T-197, p. 79, lines 6-15.

¹¹⁶² P-1647: T-194, p. 47, lines 22-23.

¹¹⁶³ P-1647: T-194, p. 47, lines 5-16 and lines 20-23; p. 48, lines 9-10; p. 50, lines 21-25 and p. 1, lines 1-2; P-1786: T-197, p. 79, lines 6-15; P-1839: T-174, p. 81, lines 12-19. See also Section II.B.2.c).

¹¹⁶⁴ P-1813: [CAR-OTP-2069-0035-R02](#), para. 71; T-182, p. 46, lines 6-23.

¹¹⁶⁵ P-1813: T-180, p. 29, lines 12-16, p. 30, line 26 to p. 31, line 2.

¹¹⁶⁶ See P-1813: [CAR-OTP-2069-0035-R02](#), para. 71; T-180, p. 29, line 24 to p. 30, line 19; [CAR-D29-0002-0086](#).

¹¹⁶⁷ D29-5013: T-285, p. 50, lines 19-23; see also P-1839: T-175, p. 83, lines 3-10.

¹¹⁶⁸ P-0884: T-057, p. 75, lines 15-17; P-1647: T-195, p. 45 line 23 to p. 47 line 3; [CAR-OTP-2055-2610](#) [00:02:52] to [00:03:17], [00:06:42] to [00:07:45]; [CAR-OTP-2122-2271](#), p. 2276, lines 93-101; p. 2287-2279, lines 178-188. See also [CAR-OTP-2094-7703-R01](#) (attributing phone number to Souleymane Daouda) and [CST] [CAR-D29-0004-2593](#) (CST showing phone calls between phone numbers attribute to Momokama and Daouda). See also [CAR-OTP-2094-7618](#), [00:04:17].

two from as early as 12 January 2014.¹¹⁶⁹ The timing of this significant alliance highlights the extent of Mr. Yekatom's efforts to find common ground in reuniting the country immediately following Djotodia's resignation.

352. Indeed, Mr. Yekatom was generally an outlier in his active approach towards reconciliation. For example, Mr. Yekatom was the only FACA member to attend and actively participate in the reconciliation meeting organised by Montaigne, the Minister for Reconciliation and Communication, on 29 March 2014 at the Omnisport stadium.¹¹⁷⁰ As confirmed by TCV-0952, the gathering was part of the reconciliation and social cohesion initiatives organised by her government,¹¹⁷¹ with high-level representatives from both the Muslim and non-Muslim religious communities in attendance with the aim to stop interreligious fighting and massacres from both sides.¹¹⁷² The significance of Mr. Yekatom's involvement in the Omnisport gathering is underscored by the threats directed at [REDACTED].¹¹⁷³ [REDACTED].¹¹⁷⁴ Indeed, [REDACTED] protection by the RFACPP as a whole continued well after the Omnisport gathering and was repeated following further threats against [REDACTED] in response to his subsequent efforts to facilitate the [REDACTED] with the assistance of the RFACPP.¹¹⁷⁵

353. Mr. Yekatom was also not deterred by attempts from 'anti-balaka' to disrupt reconciliation efforts. This is exemplified in his agreement to join efforts – led by governmental and international forces - to facilitate dialogue and reconciliation in Boda in April 2014, following months of intense revenge attacks against the Muslim population.¹¹⁷⁶ Whilst such attempts failed at the time, Mr. Yekatom continued to undertake various efforts to accelerate peace efforts across the country, noting that international support was dependent on the resumption of a dialogue between two parties – namely the Seleka and 'anti-balaka'.¹¹⁷⁷ This ultimately led to Mr. Yekatom's support for the creation of a single National Coordination in response to intensified demands made by the

¹¹⁶⁹ [CAR-D29-0004-2593](#).

¹¹⁷⁰ P-0884: T-057, p. 75, lines 12-16; P-0808: T-072, p. 60, lines 11-16; P-0888: T-122, p. 34, lines 1-17; [CAR-OTP-2023-1831](#), [00:01:07], [00:50:21] / [CAR-OTP-2127-6561](#).

¹¹⁷¹ TCV-0952: T-252, p. 44, line 9.

¹¹⁷² P-0884: T-057, p. 70 lines 16 to p. 71, line 16.

¹¹⁷³ [REDACTED].

¹¹⁷⁴ [REDACTED].

¹¹⁷⁵ P-0888: T-122, p. 35, line 12 to p. 37, line 25; P-1193: [CAR-OTP-2135-2773-R01](#), para. 36; P-1193: T-126, p. 55, lines 24 to p. 56, line 1.

¹¹⁷⁶ P-0801: T-036 p. 14 line 13 to p. 25 line 17; [CAR-OTP-2001-4818](#) (14 March 2014 Order for government 'mediation and security' mission to BODA involving *inter alia* P-0801 and Mr. Yekatom); [CAR-OTP-2060-0799](#) (referring to non-aggression pact signed pursuant to mission). Regarding the immediate resumption of hostilities notwithstanding the mission and pact see P-0884: T-056, p. 82, lines 3-4; P-0808: [CAR-OTP-2093-0010-R02](#), para. 105. See also [CAR-OTP-2115-0285](#), and submissions in annex of BTM ICC-01/14-01/18-2661-Conf-AnxA (item #32).

¹¹⁷⁷ [CAR-OTP-2023-1990](#), [00:01:03] to [00:01:37] / [CAR-OTP-2122-9420](#), p. 9421, lines 15-21.

international community including, *inter alia*, the UNDP, Mouda, and Pareto in June 2014.¹¹⁷⁸

354. Mr. Yekatom's commitment to the restoration of peace extended both pre- and post- charged period.

B. The evidence does not establish that the charged events were perpetrated by Mr. Yekatom

1. BOEING / CATTIN

a) Mr. Yekatom and RFACPP members' participation in the 5th December Operation was legitimate, lawful and limited

355. At the end of November 2013, Mr. Yekatom was contacted by Cptn. Ngremangou,¹¹⁷⁹ who requested that he assist the latter and a handful of Bangui-based FACA who planned to attack the Seleka in PK5 from their position in Boeing.¹¹⁸⁰ Ngremangou being a military superior of Mr. Yekatom and his RFACPP FACA colleagues, the latter were duty-bound to accede to his request.¹¹⁸¹ Moreover, he had promised Mr. Yekatom that French forces would provide weapons and ammunition to be used against the Seleka (which assistance never materialised).¹¹⁸² It was pursuant to this request that Mr. Yekatom, along with approximately 20 RFACPP members, left the bush for the sole purpose of combatting the Seleka in Bangui.¹¹⁸³ On the 5th, RFACPP members engaged the Seleka in Cattin before being forced to retreat for lack of ammunition.¹¹⁸⁴

356. The Chamber has received extensive evidence of the mass human rights abuses perpetrated throughout CAR in 2013 by Seleka forces, themselves made up predominantly of foreign mercenaries from Chad and Sudan who victimised CAR citizens irrespective of their ethnicity or religion. These citizens' powerlessness at the hands of foreign mercenaries, the Seleka's systematic plundering and destruction of CAR national resources and institutions, and the

¹¹⁷⁸ P-0954: T-166, p. 72, lines 17-24; P-1193: [CAR-OTP-2135-2773-R01](#), paras. 36, 37; P-0888: T-120, p. 80, lines 27 to p. 81, lines 1-9; P-1858: T-185, p. 50, lines 6-12.

¹¹⁷⁹ See, [CAR-OTP-2054-1480](#), row #314272 (for first contact available in OTP CDRs between attributed phone numbers of Messrs Yekatom and Ngremangou, at 10:50 on 29 November 2013).

¹¹⁸⁰ P-0884: T-056, p. 3, line 25 to p. 4 line 24, p. 6, lines 9-14, p. 41, lines 19-24; P-2841: [CAR-OTP-2127-4238-R01](#), paras. 106, 108; T-030, p. 35, line 22 to p. 36, line 10; P-0446: [CAR-OTP-2059-1546-R02](#), p. 1564, lines 641-661; P-2232: T-076, p. 20, lines 21-24.

¹¹⁸¹ P-0487: T-206, p. 23, lines 23-26; P-1786: T-198, p. 4, line 28 to p. 5, line 3.

¹¹⁸² See below, Section IV. B.1.(b)(ii).

¹¹⁸³ [CAR-OTP-2065-2292](#), [00:44] to [00:51] / [CAR-OTP-2127-3635](#), p. 3637, lines 22-23 (where Mr. Yekatom recounts to an interlocutory that he and RFACPP elements had been 'misled' by Ngremangou and found themselves out of ammunition in Cattin on 5th December); [CAR-OTP-2065-0999](#) [00:17] to [00:30] / [CAR-OTP-2107-1543](#), p. 1544, lines 4-6 (where Ouandjio informs P-1819 that RFACPP elements left the bush 'to fight the Seleka' on 5th December); see also ICC-01/14-01/18-2233-Conf-AnxA, pp. 150-151, item #156; [CAR-OTP-2065-4880](#) [03:55] to [04:04] / [CAR-OTP-2107-1551](#), p. 1555, lines 110-112 (where Ngremangou informs his Sangaris interlocutor that Mr. Yekatom was under his orders; and that he had 'always been' with him); regarding the small scale of the RFACPP operation, see videos below: Section IV. B.1.(b)(ii).

¹¹⁸⁴ See below, Section IV. B.1.(b)(ii).

seeming indifference of the international community to this unfolding catastrophe¹¹⁸⁵ left Mr. Yekatom and RFACPP members no choice but to mobilise, pursuant to their sworn duty to serve and defend the CAR nation and flag.¹¹⁸⁶ The RFACPP's part in the 5th December Operation was thus legitimate, necessary, and reasonable in the circumstances.

357. That said, the OTP has not established that Mr. Yekatom was aware of the broader 5th December Operation: i.e. that 'anti-balaka', ex-FACA and/or other resistance groups were also combatting the Seleka in Bangui on that day; nor that he was aware of the respective or collective nature(s), objective(s) or conduct of these groups or their leaders. This awareness cannot be inferred from the mere fact that the RFACPP's attack on Seleka positions in Cattin coincided with these other groups' attacks on Seleka positions elsewhere in Bangui that day. Indeed, the trial record indicates the contrary. The Chamber received evidence of a conversation between Mr. Yekatom and P-0884 subsequent to the 5th December Operation, in which it was [REDACTED] Mr. Yekatom that people had come 'from all over', including Bossangoa, after Mr. Yekatom had expressed his incomprehension at the 'total disorder' he witnessed.¹¹⁸⁷

358. In fact this lack of awareness was mutual: P-0884 only learned of Mr. Yekatom's involvement once the Operation had concluded – this despite the fact that P-0884, [REDACTED], and had been regularly exchanging information regarding the Operation in the days prior [REDACTED].¹¹⁸⁸ P-0884 notably described the 5th itself as the first moment in time that the various groups that had been independently resisting the Seleka 'really met each other'.¹¹⁸⁹ Further, multiple 'anti-balaka' insider witnesses who participated in the broader 5th December Operation have made a varying array of misinformed claims regarding the nature and timing of RFACPP operations on that day, which in and of itself would indicate the lack of prior coordination.¹¹⁹⁰ [REDACTED],¹¹⁹¹ who led a group of 'anti-balaka' in an attack on Seleka positions in the [REDACTED] during the Operation,¹¹⁹² did not seem to be aware that fighting

¹¹⁸⁵ P-0884: T-055, p. 49, lines 18-28; see also P-1576: T-239, p. 37, line 26 to p. 38, line 8, p. 79, line 23 to p. 80, line 14.

¹¹⁸⁶ P-1647: T-195, p. 12, line 7 to p. 13, line 25; see also [CAR-OTP-2065-0806](#) / [CAR-D29-2006-1324](#) (where RFACPP FACA element Salvador Manoumana states that he has mobilised pursuant to this duty); see also, P-1786: [CAR-OTP-2058-0200-R03](#), paras. 12, 19-20; and see also, P-0954: T-166, p. 10, line 22 to p. 11, line 3.

¹¹⁸⁷ P-0884: T-055, p. 79, lines 7-14. The Defence maintains that the conversation in question did not occur on the 5th December but the days following; see, P-0884: T-057, p. 45, line 21 to p. 46, line 1.

¹¹⁸⁸ P-0884: T-055, p. 78, line 26 to p. 80, line 21; p. 82, lines 15-24; p. 76, lines 1-7; and T-056, p. 3, lines 1-15; p. 4, line 11 to p. 5, line 6; p. 6, lines 7-18.

¹¹⁸⁹ P-0884: T-055, p. 81, line 27 to p. 82, line 2.

¹¹⁹⁰ See P-0446: T-096, p. 50, line 11 to p. 51, line 17; (who claimed Mr. Yekatom's group split in two and attacked PK9 and PK5); P-1521: T-081, p. 34, lines 23 to p. 35, line 1 (who claimed that those in Boeing did not attack on the 5th, but on the 6th or 7th); P-0889: [CAR-OTP-2122-8036-R02](#), p. 8045, lines 295-301 (who stated that Mr. Yekatom did not in fact participate in the broader attack, but led his own attack at PK9); see also P-0992: T-076, p. 48, line 23 to p. 49, line 5 (who does not know whether ARY participated on the 5th).

¹¹⁹¹ [REDACTED].

¹¹⁹² [REDACTED].

had taken place in Cattin on the 5th, or that the Seleka had taken up positions there (though in contrast, he was notably aware that Ngremangou had fought in Boeing that day); and he expressly stated that he ‘had no information regarding Mr. Yekatom’.¹¹⁹³ Contact between phones attributed to alleged ‘anti-balaka’ leaders and Mr. Yekatom prior to 5th December is noticeably lacking, also reflecting this lack of prior coordination.¹¹⁹⁴

359. More broadly, other evidence demonstrates the independence of the RFACPP *vis-à-vis* other resistance groups and/or alleged leaders. Alleged ‘Gobere Group’ chief [REDACTED] did not hear about Mr. Yekatom or his whereabouts from other chiefs during the events; and was unaware that Mr. Yekatom had established a movement in Lobaye.¹¹⁹⁵ P-0884 referred to Mr. Yekatom having ‘evolved differently’ from the other ‘anti-balaka’ groups and ‘was not with them’ when he started his movement with his FACA colleagues after leaving Zongo.¹¹⁹⁶ In videos filmed in the aftermath of the Operation, Mr. Yekatom and RFACPP members can be seen asserting this independence.¹¹⁹⁷ In fact, senior FACA officers’ perceived lack of support for the RFACPP movement from its nascency through to the 5th December became a source of resentment among RFACPP members.¹¹⁹⁸ The independence of the RFACPP continued throughout the period it was based in Boeing, ultimately culminating in the movement’s departure towards the PK9-Mbaïki axis.

360. The effective collapse of the OTP case theory as to links between Mr. Yekatom and the alleged ‘coordinator’ of the broader Operation, Mokom – according to which Mr. Yekatom had stayed in a house rented by Mokom in Zongo, where they ‘met regularly; and Mr. Yekatom was ‘organise[d] and coordinate[d] by Mokom and acted ‘in consultation’ with him¹¹⁹⁹ – has also been previously argued by the Defence.¹²⁰⁰ The evidence presented at trial demonstrates that Mr. Yekatom did not flee to Zongo with Mokom or other members of Bozizé’s circle upon the Seleka’s arrival in Bangui; but instead, that he crossed to Zongo following his attempted arrest by the Seleka, around August 2014.¹²⁰¹ It also demonstrates the personal animosity that existed

¹¹⁹³ [REDACTED].

¹¹⁹⁴ See, [CAR-OTP-2054-1479](#), [CAR-OTP-2054-1480](#); cf.

¹¹⁹⁵ [REDACTED]; *contra*, P-2269: [CAR-OTP-2111-0336-R01](#), para. 56; see, prior Defence submissions in ICC-01/14-01/18-1984-Conf, paras. 42-49 (regarding unreliability of P-2269’s untested evidence).

¹¹⁹⁶ P-0884: T-055, p. 77, line 19 to p. 78, line 6.

¹¹⁹⁷ See e.g., [CAR-OTP-2065-0396](#), [01:45] to [02:15] / [CAR-OTP-2122-2284](#), lines 36-43.

¹¹⁹⁸ [CAR-OTP-2065-4902](#), [00:00] to [00:51] / [CAR-OTP-2130-1152](#), p. 1154, lines 3-14 (where RFACPP members including Beina express their anger towards Ngremangou for his and other FACA senior officers’ lack of support for their movement while they were in the bush, including when they left for the 5th December Operation).

¹¹⁹⁹ *Contra* ICC-01/14-01/18-723-Conf, paras. 84, 86, 111.

¹²⁰⁰ See, prior Defence submissions in ICC-01/14-01/18-2194-Conf, paras. 21-25.

¹²⁰¹ P-2232: T-075, p. 33, line 6 to p. 34, line 17, p. 35, lines 1-6; P-1786: T-197, p. 62, lines 13-17; P-1172: [CAR-OTP-2082-1058-R03](#), para. 73; *contra*, P-2269: [CAR-OTP-2111-0336-R01](#), para. 27; see, prior Defence submissions in ICC-01/14-01/18-1984-Conf, paras. 42-49 (regarding unreliability of P-2269’s untested evidence).

between Mr. Yekatom and Mokom, stemming from the latter's involvement in Mr. Yekatom's detention by Congolese immigration in Zongo.¹²⁰² Witnesses who were in close contact with Mokom (either in Zongo or via telephone) in the lead-up to 5th December have positively denied that Mokom and Mr. Yekatom met in Zongo or were in contact afterwards, or have otherwise stated that they never heard of such contact.¹²⁰³ The Chamber also received evidence that Mr. Yekatom expressly rejected Mokom's attempts to 'instruct' him through a mutual acquaintance; and more broadly, of Mr. Yekatom's grave reservations about civilians seeking to command FACA in the context of the resistance.¹²⁰⁴ In light of this evidence, the OTP's speculative reliance on a handful of phone calls between phone numbers attributed to Mr. Yekatom and Mokom do not establish any planning, organisation, agreement or exchange of information whatsoever between the two vis-à-vis the 5th December Operation.

361. Lastly, it cannot simply be assumed that Ngremangou would have shared information that he had about the broader Operation with Mr. Yekatom. This is especially the case given the evidence indicating that Ngremangou was not forthcoming or truthful as regards details of the Operation with Mr. Yekatom or RFACPP members.¹²⁰⁵ The Defence notes the claims of P-0954 as to pre-5th December phone contact between Mr. Yekatom and P-0306 and other 'northern anti-balaka'; and the claims of P-0446 as to similar contact between Mr. Yekatom and [REDACTED].¹²⁰⁶ Both claims should be disregarded. P-0954's claimed contact is not reflected in CDRs, nor in the evidence of P-0306, and is based on supposed 'public knowledge' and information on the radio.¹²⁰⁷ More broadly, P-0954 has shown an extraordinary willingness to fabricate evidence, including with regard to the 5th December Operation: most notably, his lie that on 5th December, the RFACPP, including Beina and Ouandjio, had been based behind the hill in east Bangui, and attacked Camp Kassai and Djotodia's residence that day; and further, that this information came

¹²⁰² P-0889: [CAR-OTP-2122-8036-R02](#), p. 8045, lines 290-301; P-0884: T-054, p. 52, lines 15-18; T-055, p. 78 lines 6-17, p. 83, lines 5-10; P-0888: T-120, p. 23, lines 5-10; T-121, p. 15, line 14 to p. 16, line 10; see also P-2232: T-079, p. 12, line 12 to p. 13, line 14; see also, regarding Mokom's cohabitation with a Congolese immigration officer in Zongo, P-2232: T-079, p. 12, line 12-24.

¹²⁰³ P-2232: T-079, p. 14, line 25 to p. 15, line 4; P-0889: [CAR-OTP-2122-7684-R02](#), p. 7692, lines 274-280; [CAR-OTP-2122-8002-R02](#), p. 8033, lines 1140-1142; T-111, p. 20, lines 26-27; P-0884: T-055, p. 83, lines 5-18; P-1172: [CAR-OTP-2082-1058-R03](#), para. 73; see also, P-0446: T-096, p. 51, line 24 to p. 52, line 6.

¹²⁰⁴ P-0889: [CAR-OTP-2122-7962-R02](#), p. 7971, lines 326-328; [CAR-OTP-2122-8112-R02](#), p. 8128, lines 566-572; and [CAR-OTP-2065-3220](#), [01:45] to [02:39] / [CAR-OTP-2127-3668](#), lines 27-43, (video in which Mr. Yekatom admonishes a FACA for accepting directions and instructions for Yagouzou, the civilian chief of an 'anti-balaka' base in Boeing).

¹²⁰⁵ [CAR-OTP-2065-2292](#), [00:44] to [00:51] / [CAR-OTP-2127-3635](#), p. 3637, lines 22-23 (where Mr. Yekatom recounts to an interlocutory that he and RFACPP members had been 'misled' by Ngremangou and found themselves out of ammunition in Cattin on 5th December); [CAR-OTP-2065-4902](#), [00:40] to [00:55] / [CAR-OTP-2130-1152](#), p. 1154 lines 12-13 (where RFACPP member Bodios, in a heated argument involving Ngremangou, refers to the fact that 'these are the officers that misled us' when they left the bush).

¹²⁰⁶ P-0954: [CAR-OTP-2048-0171-R03](#), para. 34; T-166, p. 29, lines 13-23; P-0446: T-096, p. 51, lines 18-23.

¹²⁰⁷ P-0954: T-166, p. 28, line 30 to p. 29, line 5.

from Beina, Ouandjio, Seda and [REDACTED] themselves.¹²⁰⁸ P-0446's claims as to prior contact are likewise not reflected in CDRs, and further, are inconsistent with video filmed subsequently in which it is apparent that Mr. Yekatom does not have Konate's phone number.¹²⁰⁹

362. In any event, even assuming *arguendo* that Mr. Yekatom was aware of a broader Operation, it does not follow that he was aware of any criminal objectives that other groups, leaders, or participants may have harboured. In this regard, the Defence recalls that even on the OTP case as charged, the broader 5th December Operation first targeted Seleka positions in Bangui, which was then followed by attacks on Muslim civilians;¹²¹⁰ in other words, the initial Operation was purely military in nature and only subsequently devolved into an alleged attack against the civilian population. Indeed, OTP insider witnesses were effectively unanimous as regards the fact that the broader 5th December Operation targeted Seleka positions.¹²¹¹ In the same vein, multiple such witnesses insisted that at no point was targeting, or taking revenge on, Muslim civilians an objective of the 'anti-balaka'.¹²¹² In fact, the extent to which Muslim civilians were targeted, by which group(s), and where, has not been clearly established by the OTP. Evidence indicates that the bodies of 65 Muslims killed in Bangui were brought to Ali Babolo Mosque on 5th December. Per the deputy imam, who was present that day, the Seleka were bringing their dead colleagues to the Mosque; and some bodies were in uniform.¹²¹³ The number of Seleka and/or Muslim combatants that were among the casualties remains unknown, as is the number of non-combatants who may have been killed in the ensuing indiscriminate Seleka reprisals and/or mob violence that occurred that day.

- b) Mr. Yekatom and the RFACPP did not direct attacks against, or otherwise target, the Muslim civilian population of Boeing/Cattin
- i) Unreliable accounts - P-1339 and P-2475

363. First, the accounts of P-2475 and P-1339 are directly contradictory in multiple, fundamental aspects, from the group's initial preparations for departing the bush (i.e. the group *rassemblement*;

¹²⁰⁸ P-0954: T-166, p. 38, line 9 to p. 40, line 7.

¹²⁰⁹ [CAR-OTP-2065-2292](#) [00:01:25] to [00:01:50] / [CAR-OTP-2127-3635](#), lines 34-46 (in particular, lines 34-35, where an RFACPP member tells Mr. Yekatom to ask for the number of the 'lieutenant'; line 37, where Mr. Yekatom asks what is the number of the lieutenant; and lines 41-42, where it is clarified that Konate is the lieutenant in question; and where no one present appears to have Konate's phone number).

¹²¹⁰ ICC-01/14-01/18-282-Conf-AnxB1, para. 55; see also ICC-01/14-01/18-723, para. 394.

¹²¹¹ P-1521: T-081, p. 50, line 21 to p. 51, line 4, p. 52, lines 9-23, p. 53, lines 7-14; see also P-0992: [CAR-OTP-2110-0048-R05](#), paras. 53, 55-58; P-2232: T-079, p. 15, line 10 to p. 17, line 15; see also, P-0291: T-051, p. 64, lines 5-13.

¹²¹² See e.g., P-0884: T-057, p. 9, lines 12-26; P-0446: T-098, p. 101, lines 11-22.

¹²¹³ P-1676: [CAR-OTP-2066-0105-R01](#), paras. 19-20, 34-36, 39.

who left for the Operation; and when);¹²¹⁴ to the group's progress, arrival and pre-Operation actions in Bangui (i.e. whether and where the group split; the progression of the group(s), and where the group(s) awaited the start of the Operation);¹²¹⁵ and to the events at the Boeing Market (how many and which members were involved – including whether Mr. Yekatom himself was present; whether the Traders were armed; how many people died, and in what manner).¹²¹⁶

364. Second, fundamental alleged events in the 5th December Operation forming part of P-1339's account are inexplicably missing from that of P-2475, and *vice versa*: e.g. RFACPP members meeting and joining up with 900 'anti-balaka' and other ex-FACA at Proget;¹²¹⁷ RFACPP members entering concessions on the Boulata Road and beating, stabbing and shooting 'many more' Muslim men and women;¹²¹⁸ and perhaps most glaringly, the destruction of the Boeing Mosque by RFACPP members on their way to the Market. Indeed, the OTP's failure to seek to elicit evidence of these events from P-2475 and/or P-1339 i.e. to at least attempt to seek corroboration of these claims from either of these witnesses whom, on the OTP case, [REDACTED], speaks volumes as to the OTP's lack of confidence in these witnesses, as well as in its own case as to the RFACPP's actions on the 5th.

365. Nor can the Chamber simply disregard one account and rely on the other. As set out above, the evidence of both P-2475 and P-1339 is riddled with internal and external contradictions, reversals,

¹²¹⁴ See P-2475: T-129, p. 37, lines 1-5, p. 38, lines 21-28; T-132 p. 73 line 17 to p. 74 line 8 (where P-2475 stated that the *rassemblement* took place on the 2nd; that the movement left the bush in its entirety for the 5th December Operation, including women; and that they left on the 3rd); and compare, P-1339: T-152, p. 69 lines 23-28; T-159, p. 37 line 16 to p. 38, line 10 (where P-1339 stated that the *rassemblement* took place on the 4th, that only a select group of FACA and the 'bravest elements' were chosen for the Operation and that the rest remained in the bush; and that these elements left on the eve of the Operation and that no women were among them).

¹²¹⁵ See P-2475: T-129, p. 39, line 18 to p. 41, line 12; p. 48 lines 8-18; T-132, p. 74 line 20 to p. 76, line 26 (where P-2475 stated that the group split in two after crossing the M'Poko River; that one group led by Mr. Yekatom stayed on the main road leading to Foyer i.e. Cattin, while the group led by Ouandjio proceeded to the Muslim cemetery, where they awaited the start of the Operation); compare, P-1339: T-155, p. 4 line 8 to p. 6, line 13; T-159 p. 55 line 10 to p. 56 line 16 (where P-1339 stated that the elements did not split after crossing the river but instead all proceeded to Proget as a group, including Mr. Yekatom and Ouandjio, where they rested until the start of the Operation.).

¹²¹⁶ See P-2475: T-129, p. 40, line 28 to p. 41, line 12, p. 49, lines 8-20, p. 52, lines 20-23, p. 53, lines 10-12; T-133, p. 3, line 28 to p. 7, line 15; p. 11, lines 14-19; T-132, p. 74 line 20 to p. 76 line 26 (where P-2475 stated that only the Ouandjio sub-group, comprising less than 50 elements, proceeded to the Boeing Market and that neither Mr. Yekatom nor Habib Beina were present; that they waited until a Trader emerged at which point they started the attack; that the Traders were not armed and did not fire on the group; that Ouandjio was the only member who was using a firearm and that he shot the Traders, and other members, including children, rushed up to any injured Traders and stabbed them with knives and machetes to 'finish them off'); compare, P-1339: T-154, p. 45 lines 11-16; p. 47, line 24 to p. 48 line 10; p. 50 lines 5-13; p. 51, lines 2-5; p. 53, line 20-26; p. 74 line 8-11; p. 91 lines 13-16; T-159: p. 58, lines 15-20; [CAR-OTP-2041-0767](#), [CAR-REG-0001-0008](#) (where P-1339 states that at least 611 members – possibly over 750 – were present at the Market; they formed rows across from the Traders' shops; that Mr. Yekatom was present and gave the signal by firing in the air, at which point Hassan emerged with a machine gun and counter-attacked; Hassan's brother was armed and also fired at members; and that Beina threw a grenade into Hassan's shop, forcing him out where he was killed; and that female element 'Cheveux de la Mort' retrieved his gun; he also stated that injured Traders were then taken to hospital by the Red Cross).

¹²¹⁷ P-1339: T-152, p. 77 lines 22-28; T-154 p. 74, line 8-13; T-155, p. 10, lines 4-7.

¹²¹⁸ P-2475: T-129, p. 49, lines 21-25; p. 50, line 25 to p. 51, line 27; p. 52, line 26 to p. 53, line 1; see also P-1339: T-155, p. 22, lines 11-13; and T-155 p. 15 line 26 to p. 17 line 7 (where P-1339 claims [REDACTED] progressed along the Boulata Road and stopped at the Boulata Church i.e. prior to reaching the area where Muslims houses were found).

and outright fabrications; and their accounts of the events of 5th December are no exception.

- ii) During the 5th December Operation, the RFACPP targeted Seleka military objectives, and not civilians, in Cattin

366. On their arrival in Bangui, the Seleka recruited from the civilian population en masse, including among Bangui's Muslim traders. Seleka elements in Bangui were generally stationed in their various chief's residences (as opposed to in formal barracks) and as a result, Seleka 'bases' could be found all over Bangui.¹²¹⁹ Multiple Seleka chiefs, along with 'many' elements, were based in Cattin, including specifically on the Cattin Road.¹²²⁰ One particularly infamous Seleka chief was 'Colonel' Bichar, a Central Market Muslim trader, who was based along with up to 15 elements near the Sagbado football field between Cattin and PK5, off the Cattin Road,¹²²¹ another was Abatom, a tailor based between Cattin and Boeing, near the R Cattin factory;¹²²² and both were notorious for committing abuses against the local civilian population in their areas. Another Seleka 'General' lived on the Cattin Road, near the Dameca Road intersection; his armed security would harass Cattin locals.¹²²³ In the Seleka period, Seleka elements could be seen travelling in vehicles, patrolling and/or marching between PK5 and Boeing, in the direction of Dameca and/or the airport, or on the Dameca Road.¹²²⁴

367. It was in these specific areas that Mr. Yekatom and RFACPP targeted and engaged Seleka forces in combat during the 5th December Operation. A series of videos filmed by [REDACTED], who was [REDACTED], indicate that by 06:22, Seleka fighters were on their way to Boeing;¹²²⁵ and that Seleka elements were counter-attacking on the Cattin Road, at R Cattin, by around 8 AM at the latest.¹²²⁶ In one clip filmed at 08:10, two injured Seleka elements are seen lying in a compound across from R Cattin, and third Seleka officer explains to [REDACTED] that three combatants with whom they are engaging 'here' are not 'anti-balaka' but FACA whom he knows 'very well'.¹²²⁷ Seleka elements proceeded to engage and pursue RFACPP members around the

¹²¹⁹ P-1521: T-084, p. 4, lines 23 to p. 5, line 18.

¹²²⁰ P-0884: T-057, p. 40 line 23 to p. 42, line 26; P-1521: T-084, p. 7, line 17 to p. 10, line 19; P-0801: T-036, p. 71 line 13 to p. 72 line 20; and [CAR-OTP-2126-2719](#) (list of Seleka dignitaries suggesting a 'location' linked to Djotodia in Cattin).

¹²²¹ P-1528: T-179, p. 43, lines 14-24, p. 46, lines 6-23 and [CAR-D29-0003-0051](#); P-0884: T-057, p. 40, line 23 to p. 41, line 24; P-0888: T-121, p. 26, line 27 to p. 27, line 8; P-1193: T-126, p. 11, line 23 to p. 12, line 11, lines 20-25; P-0487: T-203, p. 77, line 22 to p. 79, line 9; see also, P-1839: T-172, p. 23 lines 19-27.

¹²²² P-1521: T-084, p. 8, line 12 to p. 9, line 10; P-0884: T-057, p. 40, line 23 to p. 41, line 13.

¹²²³ P-1839: T-172, p. 32 line 12 to p. 33 line 28; and [CAR-D29-0003-0050](#).

¹²²⁴ P-2682: T-017, p. 30 lines 5-22; T-018, p. 23, lines 3-14, p. 24, lines 9-18.

¹²²⁵ [CAR-OTP-2065-1244](#) / [CAR-D29-0006-1442](#); [CAR-OTP-2065-6176](#); see also ICC-01/18-01/18-2515-Conf-AnxB, p. 3, #8-9.

¹²²⁶ [CAR-OTP-2065-1284](#) / [CAR-D29-0006-1485](#); [CAR-OTP-2065-6196](#) and see ICC-01/14-01/18-2515-Conf-AnxB, pp. 4-6, #14-18.

¹²²⁷ [CAR-OTP-2065-1284](#) / [CAR-D29-0006-1485](#); see also ICC-01/14-01/18-2515-Conf-AnxB, p. 5, #16-17.

Cattin crossroad along the Dameca Road, past the Dameca factory (by 08:51),¹²²⁸ and westward from Cattin, up to the river at M'poko Bac (by 10:29).¹²²⁹

368. Footage filmed post-Operation is further evidence that Mr. Yekatom and RFACPP members engaged in combat with Seleka elements in Cattin. In a conversation with Mr. Yekatom, Keapex and RFACPP members, [REDACTED] explains that, during the combat at Cattin, he overheard Mr. Yekatom's name; that he saw three RFACPP members (whom Keapex explains was himself, Ouandjio and Beina) engaging the Seleka in combat; that he also saw them fire an RPG and hit two Seleka; and that later, Seleka elements told him that those who 'attacked [the Seleka]' were not 'anti-balaka' as "anti-balaka' are not capable of using firearms in that way".¹²³⁰ In the same video, an RFACPP member can be heard explaining that they had run out of ammunition during the Operation.¹²³¹ In subsequent video, evidently in a different setting and discussion, Mr. Yekatom can be heard saying, in reference to the Operation, that 'we went up to Dameca, we didn't have enough ammunition'.¹²³²

369. The Chamber has received a multiplicity of evidence that RFACPP members were specifically ordered and trained to distinguish between combatants and civilians/non-combatants in their operations, including while the group was based in Boeing. This includes videos filmed on 7 December, which show Mr. Yekatom explaining that since the start of his movement, his group had not touched the civilian population;¹²³³ and Ouandjio explaining that on 5th December, RFACPP members 'left [the bush] to fight the Seleka'.¹²³⁴ In a subsequent video filmed in Boeing, Keapex (who participated in the 5th December Operation in Cattin) explains that the Muslims 'are our brothers' and that 'our issue is with the Seleka and Djotodia, not all the Muslims'.¹²³⁵

370. No reliable evidence has been led of Mr. Yekatom or RFACPP members directing attacks against

¹²²⁸ [CAR-D29-0003-0057](#), pp. 0062-0065 (showing progress of Seleka elements towards Dameca factory); see also P-1528: T-179, p. 25, line 3 to p. 27, line 16, p. 64, line 8 to p. 70, line 28; P-0884: T-057, p. 32, line 7 to p. 36, line 4; P-1839: T-172, p. 34, line 14 to p. 36, line 6.

¹²²⁹ See ICC-01/14-01/18-2515-Conf-AnxB, pp. 6-16, #20-33; see also, [CAR-D29-0007-0196-R01](#), p. 0198 (regarding the fact that the Seleka had regained control of Bangui by around 10:00 AM).

¹²³⁰ [CAR-OTP-2065-0726](#), [00:38] to [01:46] / [CAR-OTP-2135-4419](#), pp. 4422-4423, lines 34-99. See also videos filmed prior to that cited: [CAR-OTP-2065-0376](#) / [CAR-OTP-00002012](#), p. 2 (wherein [REDACTED] explains to [REDACTED] that they are in Samba (Bimbo) on their way to meet the group of elements that had fought in Cattin, who were in the area); and [CAR-OTP-2065-0388](#) / [CAR-OTP-00002200](#), p. 3, line 13 (where [REDACTED] and [REDACTED] encounter Mr. Yekatom and RFACPP members and [REDACTED] says to [REDACTED] 'Did I lie to you?'); see also [CAR-OTP-2118-9146](#) (for location of Samba; see northwest / top-left sector of map).

¹²³¹ [CAR-OTP-2065-0726](#), [01:49-01:53] / [CAR-OTP-2135-4419](#), pp. 4424, lines 105-107.

¹²³² [CAR-OTP-2065-2292](#), [00:44-00:51] / [CAR-OTP-2127-3635](#), p. 3637, lines 22-23. See also [CAR-OTP-2065-4902](#), [00:40 to 00:55] / [CAR-OTP-2130-1152](#), p. 1154, lines 12-13 (where RFACPP element Bodios, in a heated argument involving Ngremanougou, refers to the fact that 'these are the officers that misled us' when they left the bush).

¹²³³ [CAR-OTP-2065-0400](#) [01:01 to 01:06] / [CAR-OTP-2122-2288](#), p. 2290, lines 22-23.

¹²³⁴ [CAR-OTP-2065-0999](#) [00:19 to 00:28] / [CAR-OTP-2107-1543](#), p. 1544, lines 5-6.

¹²³⁵ [CAR-OTP-2112-1378](#), [00:00:36] to [00:00:50] / [CAR-D29-0006-0759](#), p. 1, lines 12-15; for location of *Eglise Baptiste Fondamentale Centrafricaine de Kokoro*, see 'Baptiste fondamentale' Church in Kokoro 1, [CAR-OTP-2118-9146](#).

the civilian population, or otherwise targeting civilians, in Boeing or Cattin. Indeed, it bears noting that much of the promised OTP evidence underpinning Count One simply failed to materialise at trial, including in respect of the 5th December Operation (i.e. claims as to the RFACPP's killing of a female trader 'Nina Pascal' at the Boeing Market;¹²³⁶ and their killing of 'at least four Muslims' in Cattin).¹²³⁷

371. Moreover, evidence materialised differently than promised. For instance, the claim that during the RFACPP's retreat from Cattin, members 'shouted they would first kill Djotodia, and then return to kill all Muslims', (an allegation which features prominently in the OTP charging documents and was expressly cited by PTC II) was solely based on the OTP interview of P-1528.¹²³⁸ At trial however, it emerged that this threat was in fact made by members of the local population whom he witnessed following alleged 'anti-balaka' elements in Cattin.¹²³⁹ In the same vein, the 'palm branches' theory – i.e. that Christians in Boeing and Cattin were 'warned [...] in advance' of the 'attack' and 'advised' to place palm branches in front of their homes¹²⁴⁰ – proved to be speculation based on little more than post-facto rumours;¹²⁴¹ not least given that all of Bangui, Muslims and Christians alike, were aware of the impending Operation in its lead-up;¹²⁴² and that palm branches were not only Christian signs of mourning, but also of celebration of Christian holidays¹²⁴³ – which latter would include Advent Sunday, which in 2013 fell on 1st December.

372. Lastly, P-1528's account of anonymous rumours of a 'cleansing' operation by 'anti-balaka' in Cattin on the 5th December do not support Count One, for multiple reasons. P-1528 materially modified his account, from initially claiming that per the rumours, the 'anti-balaka' were 'planning to return and kill all Muslims in the area'; to his subsequent claim that, per the rumours,

¹²³⁶ See ICC-01/14-01/18-282-Conf-AnxB1, para. 250, citing P-2125; see also ICC-01/14-01/18-403-Conf-Corr para. 89. The OTP withdrew P-2125 after the charges were confirmed; see ICC-01/14-01/18-724-Conf-AnxA. See also P-2682: T-018, p. 22, lines 5-22 (where P-2682 states that she does not know a female Boeing Market trader named Nina Pascale, nor had she heard that any female Boeing Market traders died on 5th December 2013).

¹²³⁷ See ICC-01/14-01/18-723-Conf., para. 396, citing P-1339; see below, Section IV,B.1.c).

¹²³⁸ ICC-01/14-01/18-403-Conf-Corr, para. 88.

¹²³⁹ P-1528: T-178 p. 31, lines 5-12. The Defence notes that this seeming OTP mischaracterisation appears to stem from a lack of precision within P-1528's statement as drafted – namely, with respect to whom exactly P-1528 was referring when he stated 'they were shouting [...]', given that elsewhere in his statement P-1528 stated that the 'anti-balaka' whom he saw that day were 'followed by a crowd of locals who were encouraging' them – see [CAR-OTP-2121-2831-R01](#), paras. 30-32.

¹²⁴⁰ ICC-01/14-01/18-723-Conf, para. 395. Of the four promised witnesses on this point, three (P-1584, P-2698, and P-1442) were ultimately not relied on by the OTP.

¹²⁴¹ P-1528: T-178, p. 27, line 20 to p. 29, line 1; and T-179, p. 50, line 15 to p. 51, line 24 (where P-1528 refers to post-5th December rumours and speculation among the Muslim community regarding 'passwords' or 'warning signs' that could explain why Christians in Bangui had threatened imminent revenge prior to 5th December); see also P-2472: [CAR-OTP-2110-0355-R01](#), para. 33 (where he states that he first noted palm leaves in front of homes on non-Muslims in areas around PK5 one week after the 5th December).

¹²⁴² See e.g., P-0884: T-056, p. 3 line 27 to p. 4, line 24.

¹²⁴³ P-1528: T-178, p. 28 lines 11-17.

the ‘anti-balaka’ had been stopped at the R Cattin factory and while retreating, were applying the instructions they had received, i.e. to enter every compound in Cattin and should a Muslim be sheltering with a Christian they should both be killed.¹²⁴⁴ It appears that his new account may have been influenced by a preceding series of questions regarding a Seleka position just off the Cattin Road, during which P-1528 was shown a series of photographs of Seleka elements in combat in front of the R Cattin factory on the 5th.¹²⁴⁵ Further, the rumours comprise second-degree (at the very least, and potentially anonymous) hearsay, sourced from P-1528’s neighbour (whose whereabouts that day are unknown) via his wife; and P-1528 himself stated expressly that he did not know whether the rumours were true or false, nor where they were originally sourced from.¹²⁴⁶ No evidence of any such attack, nor of plans of such an attack, has been led: in fact, on the contrary, P-1528 [REDACTED], i.e. approximately six hours after the Seleka had regained control of Cattin, and his extended family remained there for at least a few days after the 5th, yet at no stage did P-1528 suggest that the rumoured attack in Cattin, nor anything of the sort, had actually taken place.¹²⁴⁷

iii) Presence of multiple groups in Boeing/Cattin

373. The Chamber received evidence of the presence of multiple ‘anti-balaka’ groups in and around Boeing, both before 5th December and afterwards. Ngremangou and his group of FACA had been present in Boeing prior to 5th December.¹²⁴⁸ Certain ‘anti-balaka’ chiefs and their groups had also arrived in Boeing from various regions, including Bossangoa and Bouca, before 5th December.¹²⁴⁹ In this period, Boeing youths were seen disappearing into the bush by day and returning by night, apparently to form and/or join ‘anti-balaka’ groups who were preparing to ‘enter’ Bangui.¹²⁵⁰ P-0884 also referred to ‘anti-balaka’ ‘descending upon the city on a daily basis’, ‘infiltrating’ the city, and being accommodated by Bangui residents in the lead-up to the 5th December Operation.¹²⁵¹

374. Modibo and his group of Bossangoa ‘anti-balaka’ were present in Boeing on the 5th December.¹²⁵² Ngremangou and his group progressed towards PK5 from his position in Boeing;

¹²⁴⁴ P-1528: [CAR-OTP-2048-0757-R05](#), para. 35; T-178, p. 58, lines 10-17; cf., T-179, p. 54, lines 9-14.

¹²⁴⁵ P-1528: T-179, p. 43, line 14 to p. 44, line 24; see [CAR-D29-0010-0052](#) and [CAR-D29-0010-0067](#); for location of P-1528’s residence relative to the R Cattin factory, see [CAR-D29-0003-0057](#), p. 0600.

¹²⁴⁶ P-1528: T-179, p. 54, line 15 to p. 55, line 9; see also p. 55, lines 10-13 (where P-1528 states that he did not know the name of the neighbour with whom he sheltered, nor her husband).

¹²⁴⁷ P-1528: [CAR-OTP-2121-2831-R01](#), para. 25 and T-178, p. 34 lines 4-8.

¹²⁴⁸ P-0884: T-057, p. 21, line 26 to p. 22, line 1.

¹²⁴⁹ P-0884: T-055, p. 81, lines 12-20; and T-057, p. 19, line 18 to p. 20, line 13.

¹²⁵⁰ P-2682: T-018, p. 23, lines 14-24.

¹²⁵¹ P-0884: T-056, p. 3 lines 27-28; and p. 4, lines 11-24.

¹²⁵² P-0884: T-057, p. 20, line 24 to p. 21, line 13.

many Seleka were based in and around PK5, including westward from PK5, up to the Gbaya-Doumbia Church.¹²⁵³ The Chamber also heard evidence that the civilian population of Bangui were out and active during the Operation, including in Boeing, where the population not only accompanied and ‘assisted’ the ‘anti-balaka’ but also participated in fighting.¹²⁵⁴ P-1528 witnessed an agitated crowd of the local population in Cattin, shouting threats to kill Djotodia and ‘the Muslims’. Ngremangou’s group was only able to progress to Boulata before being forced to retreat due to the Seleka counter-attack.¹²⁵⁵ So many ‘anti-balaka’ groups had retreated to Boeing by the end of the Operation that the Seleka were unable to enter much of the neighbourhood.¹²⁵⁶

375. In such circumstances, where allegations attribute unlawful conduct to unspecified ‘anti-balaka’, it self-evidently cannot be automatically inferred that RFACPP members are responsible. Much of the OTP’s evidence brought in respect of the events in Boeing and Cattin suffers from this fatal deficiency: i.e. it is insufficiently specific or detailed to allow inferences to be drawn as to the identity of the perpetrator(s) or the group(s) to which they belong. For instance, in P-1990’s statement, it was claimed that P-1990 heard from ‘the anti-balaka elements’ that Muslims were regarded as Seleka; that ‘many Muslim civilians were killed [...]’ by the ‘anti-balaka’ during the 5th December attack; or that in the aftermath of the attack he saw ‘many bodies’ of his ‘Muslim neighbours’ on the ground.¹²⁵⁷ None of these allegations can support the OTP case, for lack of precision. Nor was this deficiency remedied via his supplementary examination: on the contrary, P-1990 repeatedly modified key details of his statement,¹²⁵⁸ including on the critical matter of when it was that he saw the ‘many bodies’ on the ground (alternatively suggesting that it was two weeks after the 5th; then that it was three or four days after the 5th; before finally settling on the 6th December);¹²⁵⁹ how many he saw (modifying his initial claim of seeing ‘many bodies’ to just seeing ‘one body’ as they fled);¹²⁶⁰ as well as to whom this body belonged, ultimately confirming that in fact he was not able to identify it (as a ‘Muslim neighbour’).¹²⁶¹ P-1990 also suggested that

¹²⁵³ P-0446: [CAR-OTP-2059-1672-R02](#), pp. 1691-1692; P-0884: T-057, p. 64 lines 1-5; P-1521: T-081, p. 71, lines 14-21 (note that P-1521 appears to be confused about the date of the combat in Boeing); see also [CAR-OTP-2118-9146](#) (for location of Gbaya-Doumbia Church, due east of Boieng/Cattin).

¹²⁵⁴ P-1528: T-179, p. 58, line 24 to p. 59, line 3; P-0884: T-057, p. 31, lines 7-15; see also P-0889: T-111, p. 13, lines 8-17.

¹²⁵⁵ P-1521: T-081, p. 71, lines 14-21.

¹²⁵⁶ P-0884: T-057, p. 45, lines 9-20.

¹²⁵⁷ P-1990: [CAR-OTP-2124-0247-R02](#), para. 24.

¹²⁵⁸ See also P-1990: T-237, p. 25, line 2 to p. 26, line 6 and p. 21 line 27 to p. 22 line 6 (where P-1990 walked back these claims in his written statement, confirmed that by the term ‘anti-balaka’ he was also referring to agitated members of the population; and that the information about the killings by the ‘anti-balaka’ was anonymous hearsay, including from media sources).

¹²⁵⁹ P-1990: T-236, p. 8, line 15 to p. 12, line 1.

¹²⁶⁰ P-1990: T-236, p. 11, lines 11-23. This modification implies that the ‘many bodies’ he saw were in fact those that were exhumed in 2015, further demonstrating the muddled and unreliable nature of his evidence; see P-1990: [CAR-OTP-2124-0247-R02](#), paras. 38 et seq.

¹²⁶¹ P-1990: T-237, p. 22, lines 7-10.

he also saw bodies of non-Muslims there, further rendering the circumstances of these deaths uncertain, especially in light of the extensive evidence of indiscriminate Seleka reprisal attacks on civilians in Boeing on 5th December.¹²⁶²

376. Nor does P-1990's hearsay claim as to a supposed encounter between [REDACTED] and 'anti-balaka', whereby [REDACTED] was advised to 'leave' because there would be 'fighting', provide the necessary precision to link these deaths to the RFACPP. For one, his account in this regard was confused, inconsistent, illogical, and improperly led by the OTP.¹²⁶³ In any event, even if the Chamber were to accept this claim, the mere fact that the RFACPP encountered a civilian (in an unspecified location)¹²⁶⁴ and warned her of impending 'fighting' does not allow the Chamber to draw any inference linking the RFACPP to the unidentified body that P-1990 claims to have seen (at least) 24 hours later, in an unspecified location, let alone that this incident comprises evidence of an attack against the Muslim civilian population of Boeing and Cattin.

377. Lastly, the untested anonymous hearsay evidence of P-2472 and P-1676 (neither of whom were in Boeing or Cattin on the 5th) regarding alleged attacks or killings in Boeing by unspecified 'anti-balaka' suffers from the same lack of specificity as regards the circumstances of these incidents,¹²⁶⁵ and the OTP's decision to tender this material via rule 68(2) has resulted in this deficiency remaining unremedied. Indeed, P-1676's statement contains an illustrative example of the speculative and circular attribution of crimes to the 'anti-balaka', where he states that he believes it was the 'anti-balaka' who were responsible for killing multiple people on the PK13 axis simply 'because they are the ones who attacked Bangui on 5th December'.¹²⁶⁶

c) Alleged killings in Cattin

¹²⁶² P-1990: T-236, p. 7, lines 8-17.

¹²⁶³ P-1990: T-236, p. 9, line 18 to p. 12, line 24, p. 15, lines 11-25; and T-237, p. 30, line 14 to p. 31, line 10 (where P-1990 first claimed that this encounter took place three or four days after the 5th December Operation, before then stating that it was on the 5th itself; and where P-1990 then repeats OTP Counsel's suggestion that the 'anti-balaka' [REDACTED] met were those based at Yamwara, and when asked how he knew this, he suggested it was because [REDACTED], a Boeing local, could recognise people who were not from the area; and where, led a second time by OTP Counsel, he stated that his wife recognised certain elements who were from the neighbourhood, before then stating that the only person she recognised was 'Coeur de Lion'; and lastly, where during examination by the Defence, he claimed that [REDACTED] was able to recognise 'Coeur de Lion' because he had been based at Yamwara prior to this encounter; before then claiming that in fact 'Coeur de Lion' had previously lived in the neighbourhood and was thus known there, even before the 'anti-balaka' arrived at Yamwara); cf. P-1990: [CAR-OTP-2124-0247-R02](#), para. 29 (where P-1990 had stated that he does not know 'Coeur de Lion's real name).

¹²⁶⁴ P-1990: T-237, p. 30, lines 8-11 (where P-1990 states that [REDACTED] was out to buy grasshoppers in PK5).

¹²⁶⁵ See e.g. P-2472: [CAR-OTP-2110-0355-R01](#), paras. 18-21, 25; P-1676: [CAR-OTP-2066-0105-R01](#), paras. 21, 28, 47, 62-63. Note also, P-2472's claim that the 'anti-balaka' attacked the *Hôpital de l'Amitié* and sought out all the Muslim patients to kill them (para. 25) is contradicted by evidence indicating that it was the Seleka that killed wounded individuals at the Hospital in an act of reprisal (see P-1647: T-195, p. 11, line 23 to p. 12, line 2; P-0567: [CAR-OTP-2059-0084-R04](#), paras. 115-116; [CAR-D29-0007-0196-R01](#); [CAR-OTP-2001-2769](#), pp. 2800-2801; [CAR-OTP-2001-2707](#), p. 2734; [CAR-OTP-2027-2664](#); [CAR-OTP-2042-5124](#)).

¹²⁶⁶ P-1676: [CAR-OTP-2066-0105-R01](#), para. 55.

378. As a preliminary matter, it bears reminding that on 5th December Cattin was the scene of active combat involving RFACPP and heavily armed Seleka elements; and that during the Seleka counter-attack, elements fired machine guns and rocket launchers extensively and indiscriminately on the Cattin and Dameca Roads and surrounds, including directly at civilians, as well as into civilian residences and premises. In one video, a Seleka element is seen haphazardly firing his machine gun on the Dameca Road, mere [REDACTED], and in the very time period that the killing allegedly (ear-)witnessed by P-1528 occurred.¹²⁶⁷ [REDACTED], who was sheltering in Cattin that day, testified to being unable to return to her residence for fear of being hit by stray bullets. The Chamber also received evidence of the Seleka killing someone and ‘dumping’ their body on the side of the road in Cattin.¹²⁶⁸ In such a context, due to the deficiencies in P-1528’s uncorroborated account of an alleged killing [REDACTED], and P-1339’s account of the killing of a moto-driver, the OTP has failed to establish that these killings even occurred, let alone that RFACPP members were involved.

i) P-1528’s uncorroborated, circumstantial account of a killing on [REDACTED]

379. P-1528 testified that he heard an individual apparently being pursued, shouting for help before ceasing; then (after an indeterminate period) saw four ‘anti-balaka’ standing in the road, through a hole in the wall of his *concession*; then, approximately six hours later, fleetingly saw an unidentified body in the road; and subsequently ‘learned’ that ‘it was someone from Plateau who fell into the hands of these people and they killed him’.¹²⁶⁹

380. First, the OTP has not established that the man whose body he saw had died; nor that the man died as a result of the incident that P-1528 overheard. P-1528’s evidence on this matter is in fact circumstantial and conclusory, pieced together from the limited events he heard and saw that day. P-1528 only saw the body roughly six hours after overhearing a chase and ‘later’ seeing four ‘anti-

¹²⁶⁷ [CAR-OTP-2065-1396](#); [CAR-D29-0003-0057](#), pp. 0060, 0065, 0068-0069 (establishing the location where the video was filmed vis-à-vis the location of [REDACTED], as well as the time the video was filmed, i.e. at 08:51 AM; and see P-1528: [CAR-OTP-2048-0757-R05](#), para. 31 (stating that the alleged killing took place ‘between 08:00-09:00’); see also [CAR-OTP-2065-1320](#) and [CAR-D29-0003-0057](#), pp. 0062’.

¹²⁶⁸ [CAR-OTP-2065-0738](#) / [CAR-OTP-00002085](#), p. 3 (where [REDACTED], who filmed the Seleka counter-attack in Cattin, refers to the Seleka having killed someone and thrown their body onto the road); see also prior video [CAR-OTP-2065-0726](#) [00:30] to [00:50] / [CAR-OTP-2135-4419](#), p. 4422, line 34, to p. 4423, line 47 (filmed prior to [CAR-OTP-2065-0738](#), and in which [REDACTED] had explains that he had heard Mr. Yekatom’s name being spoken while they were filming the clashes in Cattin; he then repeats this in [CAR-OTP-2065-0738](#), from which the inference can be drawn that [REDACTED] witnessed the Seleka ‘dump’ the body in question on/near the Cattin Road). The Defence notes that the two video were filmed in the same timeframe: the veranda depicted from the outside in [CAR-OTP-2065-0738](#) is the same as the one filmed from the inside in [CAR-OTP-2065-0726](#); as can be deduced from the layout of the construction; and [REDACTED] ([CAR-OTP-2065-0726](#), at [00:01:30]) in white with a brown-ish scarf is also visible in the same attire, from behind, sitting in the same location in [CAR-OTP-2065-0738](#), at [00:00:01].

¹²⁶⁹ P-1528: T-178, p. 29, line 20 to p. 32, line 12, p. 57, line 27 to p. 58, line 5; and [CAR-OTP-2048-0757-R05](#), para. 31; and see below. regarding the indeterminate period before seeing the four ‘anti-balaka’, and the timing at which he saw the body.

balaka' in the road; and this, only fleetingly: he was unable to describe the man's injuries, bar seeing some blood on his face and 'a little bit' under his body.¹²⁷⁰ It remains unclear on what basis P-1528 'later learned' that the body was that of 'someone from Plateau', given that he did not recognise the body,¹²⁷¹ nor did the OTP elicit clarification on this point (e.g. the source of this information, or when and in what circumstances he learned it); and as such, this conclusory statement cannot safely be relied upon by the Chamber. In the absence of proof of death, the OTP thus falls short of its obligation to prove that victim's death is the only reasonable conclusion that can be drawn from P-1528's entirely circumstantial evidence.

381. Second, the OTP has failed to establish that the four 'anti-balaka' were involved in the pursuit that he overheard, let alone in any alleged attack or killing. For one, it remains unclear where the four 'anti-balaka' were seen standing vis-à-vis the body that he saw six hours later. OTP Counsel twice improperly attempted to lead evidence from P-1528, directly putting to him that he had seen the four 'anti-balaka' men standing 'next to' the body; however both times, P-1528 clarified that he had not in fact seen the body until roughly six hours later.¹²⁷²

382. Even assuming *arguendo* that P-1528 did see the four 'anti-balaka' next to the body, it remains unclear how much time passed between the moment P-1528 overheard the pursuit and the moment he 'later' saw the four 'anti-balaka.' P-1528's evidence on this point establishes only the sequence of events, and not their chronology.¹²⁷³ The inferences that are available to be drawn from his evidence would differ considerably if P-1528 had seen the four 'anti-balaka' within seconds of the pursuit, or if he merely seen them when he looked out through the hole ten minutes later. This uncertainty is further compounded by the fact that P-1528's evidence suggests that the four 'anti-balaka' were at the head of a large crowd of the local population that he witnessed approaching: i.e. that he awaited a period of silence after hearing the alleged incident, before looking through the hole to see the four men arriving at the scene 'on foot', 'in front' of a large 'following' crowd.¹²⁷⁴ Again, the OTP failed to elicit basic details from P-1528 as to what he saw or heard that day, which might allow the Chamber to determine whether the four 'anti-balaka' had actually just chased and intentionally beaten a man to death, as alleged; details such as whether

¹²⁷⁰ P-1528: [CAR-OTP-2048-0757-R05](#), para. 31 and [CAR-OTP-2121-2831-R01](#), para. 25; and T-178, p. 29, lines 24-28, p. 32, lines 1-12.

¹²⁷¹ P-1528: [CAR-OTP-2048-0757-R05](#), para. 31.

¹²⁷² P-1528: T-178, p. 29, line 2 to p. 30, line 16.

¹²⁷³ P-1528: T-178, p. 30, lines 4-16.

¹²⁷⁴ P-1528: T-178, p. 30, line 9 to p. 31, line 12 (in particular: 'Bon, parce que quand la foule venait, toujours à travers ce petit trou qui est dans le mur, j'ai jeté un coup d'oeil, j'ai vu les gens qui étaient devant, vous savez que c'est des gens qui sont aguerris et qui sont prêts à faire du mal. Mais derrière, c'était la foule, c'était la population, les personnes seulement qui [...] encourageaient peut-être, mais qui suivaient les Balaka.') and [CAR-OTP-2048-0757-R05](#), para. 32 ('They were on foot and were followed by a crowd of locals who were encouraging the Anti-Balaka.').

P-1528 actually heard the sounds of a man being beaten to death; whether the four ‘anti-balaka’ he saw had blood on their hands, weapons or clothes; whether they appeared to be breathing heavily; or indeed, whether they appeared to be looking down at a body at all.

383. Third, the OTP has not established that the victim of the alleged killing was a civilian or was not directly participating in hostilities at the time of his death. Despite P-1528 being the only witness to have seen the body, the OTP did not elicit the necessary information on this point: whether the body was in civilian or military clothing; whether any weapons were seen on or near the body; whether he heard the victim shouting in Sango or in Arabic¹²⁷⁵ (or indeed, any other language known to be spoken by Seleka elements). While P-1528 alleged to have heard the victim’s pursuers use the term ‘*arabe*’, the Chamber has received evidence that in CAR at the time, the term was used interchangeably to refer to both Muslims and Seleka.¹²⁷⁶ The Chamber has video evidence that Seleka elements were present and actively fighting in Cattin, including on the Dameca Road [REDACTED], in the exact period in which the incident that P-1528 overheard the pursuit in question, i.e. 8 to 9 AM.¹²⁷⁷

384. Fourth, even if *arguendo* the four ‘anti-balaka’ in question had in fact intentionally beaten a Muslim non-combatant to death on the Dameca Road on 5th December, the Chamber has insufficient information to allow any conclusive findings as to what group they might belong to, if any, given the multiplicity of potential perpetrators and/or groups active that morning in Boeing and Cattin.¹²⁷⁸ In this regard the mere fact that P-1528 deemed them ‘anti-balaka’ is manifestly insufficient to determine that they were part of, or otherwise were associated with, the RFACPP; and in any event, his description of the four ‘anti-balaka’ (i.e. wearing red headbands and visible gris-gris and carrying machetes) does not match the appearance of RFACPP in the period of the 5th December Operation.¹²⁷⁹

ii) P-1339’s uncorroborated account of the killing of a moto-driver in Cattin

385. In much the same vein, P-1339’s extremely limited, anonymous hearsay account of the ambush and killing of a moto-driver is missing any information as to the perpetrator(s) (e.g. whether they were RFACPP, ‘anti-balaka’, the local population, or Seleka); indications regarding the IHL

¹²⁷⁵ Note in this regard that P-1528 understands Arabic; see P-1528: [CAR-OTP-2048-0757-R05](#), p. 0757.

¹²⁷⁶ P-1528: T-178, p. 29, lines 14-23; see also Section IV, A.1.b). P-1839: T-172, p. 28, line 19 to p. 30, line 11; P-0889: T-111, p. 33, lines 4-11; P-1990: T-237, p. 27, lines 19-27.

¹²⁷⁷ See Section IV.B.1.c).i).

¹²⁷⁸ See Section IV.B.1.b).iii).

¹²⁷⁹ See e.g. [CAR-OTP-2065-0396](#), [01:45] to [01:54] / [CAR-OTP-2122-2284](#), p. 2287, lines 36-39 (video filmed on 7 December 2013 in which Mr. Yekatom distinguishes the RFACPP from the ‘anti-balaka’ expressly citing the fact that the former did not arm themselves with machetes: ‘*nous on n’est pas des ANTI-BALAKA, hein. Voyons ici, tu n’as pas vu quelqu’un qui a des machettes. Nous, on est des FACA.*’); and see above, regarding video [CAR-OTP-2065-0726](#).

‘status’ of the victim (e.g. his membership in the Seleka or other armed group; whether he was directly participating in hostilities; his clothing; whether he was armed when he was killed); the circumstances and manner of his alleged killing, including the means; the location of the killing within the Cattin neighbourhood; and the time of this incident vis-à-vis the progression of the 5th December Operation (whether before, during or after the combat in Cattin).¹²⁸⁰ It is notable that the OTP did not pose a single follow-up question regarding this allegation after it was volunteered by P-1339 during his examination, instead directly moving on to a different subject.

386. A scene in P-1819’s ‘Special Investigation’ documentary appearing to show Seleka elements next to a man lying prostrate next to a burning motorcycle,¹²⁸¹ itself part of footage of the combat in Cattin on 5th December, does not corroborate P-1339’s account.¹²⁸² Not only was this documentary publicly broadcast in January 2014; it was in fact shown to P-1339 during his interview with investigators, and it cannot be ruled out that he was shown this footage prior to having made a similar claim about the killing of a moto-driver in his interview.¹²⁸³ In any event, the footage does not provide the necessary information as to the circumstances of the death of the individual seen therein; not least given the evidence on the record as to the Seleka having ‘dumped’ a body by the side of the road; and regarding the Seleka’s indiscriminate attacks on civilians in Cattin that morning.

d) Boeing Market events

i) P-1339’s account does not support the OTP case

387. The Chamber received no evidence that could be relied upon to find that RFACPP members were present at the Boeing Market on 5th December, let alone involved in the deaths of the Traders. In any event, even the account of P-1339 does not support the OTP case on Counts 2-3, as it suggests that the Traders did not have IHL immunity on the 5th December, and that the fighting at the Boeing Market was aimed solely at a military objective.

388. First, the Defence notes that P-1339 claimed that at least two Traders possessed and used combat weaponry during the fighting at the Market, including Hassan, who was killed in combat.¹²⁸⁴ He stated that, ‘as soon as’ the signal for the attack was given, Hassan emerged with his machine gun and started firing at the elements, itself indicating his combat-readiness.¹²⁸⁵ He could not

¹²⁸⁰ P-1339: T-155, p. 22, lines 4-23.

¹²⁸¹ [CAR-OTP-2012-0523](#), [17:00] to [17:06].

¹²⁸² To the extent that the OTP argues that RFACPP members were responsible for this alleged killing.

¹²⁸³ See, P-1339: [CAR-OTP-2041-0741-R02](#), p. 0757 and para. 77 ; see also, P-1704: [CAR-OTP-2058-0003-R05](#), para. 47 (where P-1704 refers to having seen Mr. Yekatom on a television programmes about combat with the Seleka).

¹²⁸⁴ P-1339: T-154, p. 45, lines 11-15; p. 46, lines 17-27; p. 48, lines 1-5.

¹²⁸⁵ P-1339: T-154, p. 45, lines 11-14.

remember whether the three other Traders who died at the Market had firearms and his evidence thus does not allow for a finding as to the proportion of armed and unarmed Traders both generally, and among the victims.¹²⁸⁶

389. P-1339 did not specifically suggest that unarmed Traders were among the intended object of the attack. In fact, he appears to have been surprised to see the bodies of persons other than Hassan, stating that ‘it was only after [the fighting ceased] that we realised’ that these others had been shot.¹²⁸⁷ He also stated that the unarmed Traders fled towards PK5, as did Hassan’s brother, who threw away his firearm when Hassan fell in combat; and he did not suggest that they were pursued or targeted as they fled.¹²⁸⁸ P-1339 claimed that the elements formed a row to attack;¹²⁸⁹ they thus did not encircle the Market in a manner that could suggest an intention to target those fleeing. He further suggested that any injured Traders were knowingly left alive by RFACPP, and subsequently taken to hospital by the Red Cross; and he did not state that the injured were threatened or assaulted.¹²⁹⁰ He did not suggest that those elements with close-range weapons like machetes or batons used them during or after the fighting.¹²⁹¹ Per P-1339, RFACPP members did not pillage the Traders’ boutiques in the aftermath of the fighting, nor did he suggest that they were even entered into; instead, after retrieving the fallen firearms of Hassan and his brother, they simply progressed.¹²⁹²

390. Nor was there any suggestion that the attack was indiscriminate or disproportionate in means and methods. P-1339 did not specify which of the Traders’ boutiques were actually the prior target in the alleged operation, in the absence of which it cannot simply be assumed that elements shot at all of the boutiques indiscriminately. Moreover, per P-1339, at the time of the combat, the group possessed high explosives such as rockets and grenades; however he did not suggest that these weapons were used at the Market, the sole exception being a single grenade thrown into the combatant Hassan’s boutique, from within which he had been firing at the group.¹²⁹³

391. P-1339’s evidence as to the presence of armed Traders at the Market must be assessed alongside the alleged reason that the Market was ‘attacked’ in the first place. Per P-1339, Mr. Yekatom instructed that attack ‘start’ at the Market, because the group could not bypass the Traders and progress towards PK5 ‘where the Seleka were’, as otherwise the Traders ‘could attack us from

¹²⁸⁶ P-1339: T-154, p. 51, lines 17-21.

¹²⁸⁷ P-1339: T-154, p. 50, line 16 to p. 51, line 5.

¹²⁸⁸ P-1339: T-154, p. 45, lines 15-19, p. 48, lines 1-6, p. 49, lines 22-26.

¹²⁸⁹ P-1339: T-154, p. 45, lines 9-10; [CAR-OTP-2041-0767](#).

¹²⁹⁰ P-1339: T-154, p. 51, lines 2-5.

¹²⁹¹ P-1339: T-154, p. 49, lines 16-17.

¹²⁹² P-1339: T-152, p. 74, lines 24-26; T-154, p. 50, lines 10-11, p. 48, lines 6-10.

¹²⁹³ P-1339: T-154, p. 50, lines 5-13; and see below Section IV.B.1.f.i).

behind'.¹²⁹⁴ In other words, the armed Traders were understood (including by P-1339) to pose a military threat to RFACPP members. In this regard, the Chamber will recall the evidence of multiple Boeing residents as to the Traders' possession and use of firearms; their membership in the Seleka; and their material assistance in Seleka missions aimed at tracking down, abducting and killing ex-FACA.¹²⁹⁵ P-1339's description of PK5 (the alleged 'primary' target of the Operation) as a 'veritable munitions depot', in reference to the substantial quantity of weapons that were present there, further underscores the broader military nature of the Operation.¹²⁹⁶

392. Assessed alongside the rest of P-1339's account, the alleged [REDACTED] aimed at gathering necessary military information on the ground, including as to an understanding of the concentration or proportion of combatants versus civilians potentially present at the Market, so that necessary precautions could be made, including a determination as to the appropriate means or methods to be used. The Chamber has received evidence that Hassan and/or the Traders openly carried, possessed, and or used firearms in Boeing; wore military uniforms and participated in Seleka operations – which information could reasonably be inferred to have been the reason for the reconnaissance in the first place; it also received evidence of additional Seleka and/or security at the Market in the evenings, which would have been observed [REDACTED].¹²⁹⁷

393. Lastly, with the exception of Hassan, the alleged deaths of the other Traders cannot be conclusively attributed to RFACPP members on P-1339's account. As noted above, he was unable to remember whether the three other Traders he claimed died during the events were unarmed.¹²⁹⁸ He depicted a chaotic scene at the Market, involving an exchange of combat firearm gunfire from 'from all sides.'¹²⁹⁹ He also stated that civilians 'joined' the fighting at the Market specifically, 'as soon as' the shooting started; and that when the fighting ceased, the civilians started to pillage the Traders' boutiques.¹³⁰⁰ The civilian population, having seen Seleka elements' interactions with Traders at the Market, considered them collectively as accomplices;¹³⁰¹ and P-1339 suggested that had any fleeing Traders encountered the civilian population between Boeing and PK5, they would have been killed.¹³⁰²

ii) OTP has not established that the Traders were civilians

¹²⁹⁴ P-1339: T-154, p. 63, lines 11-21.

¹²⁹⁵ See below, Section IV.B.1.d).ii).

¹²⁹⁶ P-1339: T-154, p. 58, lines 12-20.

¹²⁹⁷ See below, Section IV.B.1.d).ii).

¹²⁹⁸ P-1339: T-154, p. 51 lines, 17-21.

¹²⁹⁹ P-1339: T-154, p. 50, line 28 to p. 51, line 1.

¹³⁰⁰ P-1339: T-154, p. 50, lines 10-11, p. 74, lines 8-17; T-159, p. 58, lines 16-20.

¹³⁰¹ P-1339: T-154, p. 54, lines 1-6.

¹³⁰² P-1339: T-154, p. 49, lines 24-28.

394. The Chamber received corroborated evidence indicating that the Traders were members of the Seleka at the time of the 5th December Operation. The Traders joined the Seleka on their arrival in Bangui; they started wearing military uniforms and received military ranks; and they carried and/or possessed firearms that had been distributed to them by the Seleka.¹³⁰³ Hassan ‘Délégué’ received the grade of Seleka Colonel; and he was witnessed in military uniform at PK5 sometimes, ‘working with the Seleka’.¹³⁰⁴ The Traders directly participated in hostilities during the Seleka period, prior to the 5th December: they publicly bore and used their Seleka-issued firearms in a manner that directly endangered civilians’ lives and property;¹³⁰⁵ and they participated in Seleka military operations against FACA (and civilians perceived to be Bozizé supporters) which led to their abduction, torture and/or killing, as well as in operations aimed at pillaging civilians’ property.¹³⁰⁶ P-0884 stated that the conduct of the Traders was akin to that of notorious Seleka chiefs Abatom and Bichar.¹³⁰⁷ More broadly, the recruitment and arming of, and/or operational collaboration with, Muslim traders in Bangui was in fact a Seleka *modus operandi*.¹³⁰⁸

395. Evidence also suggests that the Traders had reason to arm themselves, including upon the arrival of the Seleka: the Traders, and in particular Hassan, had previously been victim to repeated, grave security incidents involving harm to them, their families and their boutiques.¹³⁰⁹ The Chamber also received evidence of a marked deterioration in the relationship between the Traders and the population of Bozizé, manifested in mutual mistrust, insults and threats.¹³¹⁰

396. In addition, the available evidence allows the reasonable inference that the Traders were directly participating in hostilities during the 5th December Operation. In the evening of 4th December, apparently having received information regarding the impending Operation, Hassan opted to spend the night at the Market, instead of in PK5.¹³¹¹ Hassan appears to have received this information from a reliable source, not only given its accuracy, but also given that he had previously repeatedly dismissed rumours of pending attacks in the days prior.¹³¹² It would be

¹³⁰³ P-0884: T-056, p. 23, lines 11-19; T-057, p. 48, line 10 to p. 55, line 2; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 28-29, 31.

¹³⁰⁴ P-0884: T-057, p. 51, line 25 to p. 52, line 27; D29-4011: [CAR-D29-0009-0680-R01](#), para. 29.

¹³⁰⁵ P-0884: T-057 p. 48, lines 17-20; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 31, 33.

¹³⁰⁶ P-0884: T-056, p. 28, lines 18-23; T-057, p. 48, line 10 to p. 55, line 2; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 28, 33, 35.

¹³⁰⁷ P-0884: T-057, p. 48, lines 19-20.

¹³⁰⁸ P-0889: T-111, p. 6 line 17 to p. 7, line 21; P-0992: T-095, p. 40, line 14-26; P-1521: T-084, p. 9, line 22 to p. 10, line 19; P-1521: T-084, p. 6, lines 5-8; P-1558: [CAR-OTP-2105-0195-R01](#), paras. 17, 19; P-0889: T-111, p. 6 line 17 to p. 7, line 21; P-0992: T-095, p. 40, line 14-26; P-1521: T-084, p. 9, line 22 to p. 10, line 19.

¹³⁰⁹ P-2682: T-018, p. 32, line 22 to p. 36, line 10; D29-4013: T-277, p. 10 line 12 to p. 12 line 12.

¹³¹⁰ D29-4013: T-277, p. 15, lines 2-15; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 28-29, 31.

¹³¹¹ P-2682: T-017, p. 23, line 12 to p. 24, line 20.

¹³¹² P-2682: T-017, p. 23, line 12 to p. 24, line 10.

unreasonable to infer that Hassan did not share this information about the impending attack with any Traders who were at the Market that evening (including his brother), especially given Hassan's leadership role among the Traders. In the same vein, given Hassan and the Traders' membership (or at the very least, material links) with the Seleka, as well as his possession of and access to Seleka weaponry, the Chamber can also infer that they did not take up a position at the Market unarmed.

397. Lastly, in the circumstances, the voluntary decision of Hassan (and as can be inferred, of the Traders who remained at the Market on the evening of the 4th) to take up a position at the Market in the context of an ongoing armed conflict, equipped with Seleka firearms and in the vicinity of additional armed Seleka and/or security elements, in the apparent knowledge of an impending military operation of an armed group(s) opposing the Seleka, does not allow for a finding that the Trader's use of firearms was merely in the exercise of their right to self-defence. In this regard, the Defence notes that Hassan and the Traders were not sheltering in places of refuge, with nowhere else to go; nor were they armed with mere rudimentary weapons.

iii) Circumstances leading to the deaths of the Boeing Traders remain unclear

398. As set out above, the accounts of P-1339 and P-2475 cannot be relied upon by the Chamber. Nor does the remainder of the evidence allow the Chamber to draw any conclusions as to the circumstances of the Trader's deaths, given the context of the 5th December Operation as set out above. P-1528 provided general hearsay that unspecified 'anti-balaka' attacked 'the Boeing Market area and [...] seven Muslim traders were killed'.¹³¹³ P-2682's evidence on the killings was similarly vague: while she initially named six Traders killed 'during the events', she appears to have retracted two of them;¹³¹⁴ and she made the further (unfounded) claim that 'every man that was [in Boeing] died' on that day.¹³¹⁵ P-0884, who arrived at the Market after the events along with 'many other people' and saw bodies of Traders, stated that 'maybe nine' had been killed.¹³¹⁶

399. In any event, the OTP failed to elicit the necessary precision from these witnesses as to the circumstances of the deaths of the Traders. P-0884 did not provide evidence on when he saw the bodies at the Market, where exactly the bodies were found, or what kinds of wounds they

¹³¹³ P-1528: [CAR-OTP-2048-0757-R05](#), paras. 27-29.

¹³¹⁴ P-2682: T-017, p. 23, lines 4-11 (stating that Hassan 'Délégué' died at the Boeing Market on 5th December 'during the events and the arrival' of the 'anti-balaka'), p. 32, line 9 to p. 34, line 18 and T-018, p. 16, lines 19-24, p. 21, lines 20-23 (stating that Hassan's younger brother Abras died 'during these events [of 5th December]', and naming Ousmane, Samy, Moussa and Saleh as Traders who died that day; before subsequently suggesting the examination by the Defence that she had not previously mentioned Saleh – who 'went to Chad' – nor Samy).

¹³¹⁵ P-2682: T-017, p. 32, lines 9-16; cf. P-1528: [CAR-OTP-2121-2831-R01](#), paras. 10-11, 14, 25 (regarding Muslim men who fled Boeing on 5th December).

¹³¹⁶ P-0884: T-056, p. 22, line 8 to p. 24, line 5.

displayed; whether they had weapons on or near them, and whether they were in civilian or military clothing.¹³¹⁷ While P-2682 stated that Hassan's neck had been broken,¹³¹⁸ she provided no further details as to whether his body exhibited other wounds, (such as gunshot wounds); nor was she asked to.

400. The Chamber also heard evidence as to a military Seleka presence in Boeing, and in particular at the Market, during the Seleka period and prior to 5th December.¹³¹⁹ Seleka were seen patrolling deep in the Boeing sector, in the area of the Yamwara.¹³²⁰ Armed Seleka elements took up a position across from the Boeing Market, at what is now the OCRB station, at the request of Hassan.¹³²¹ D29-4013 gave similar evidence of the nightly presence of non-Sango speaking Seleka elements in civilian clothing at the Market, next to the Traders boutiques, who were there to ensure the security of the Traders following an attempted break-in of their boutiques.¹³²² In such a context, even if *arguendo* any Traders who were unarmed, not Seleka members or not directly participating in hostilities died during combat at the Market, the information available to the Chamber does not allow it to safely rule out that they were struck by stray bullets or killed in crossfire. Nor does the totality of the evidence – in particular, the evidence as to the Traders' conduct during the Seleka period – allow for the conclusion that any resistance group combatants at the Market could not have reasonably mistaken (non-combatant) Traders for combatants.

e) Displacement, deportation, and forcible transfer of Muslim population

- i) OTP case is premised on mischaracterisations of the prevailing context and relevant events in Boeing and Cattin

401. The OTP case on Counts Five/Six relied on dual false premises, i.e. that events in Boeing/Cattin from 5th December onward that led to Muslim residents to depart can automatically be attributed to the RFACPP; and that the RFACPP military operations in this period were unlawful.

402. First, multiple armed groups were present and active in Boeing/Cattin, prior to 5th December, and during the Operation; and in the aftermath.¹³²³ After 5th December, [REDACTED] established a

¹³¹⁷ P-0884: T-056, p. 23, lines 10-24.

¹³¹⁸ P-2682: T-017, p. 26, line 1.

¹³¹⁹ P-1990: T-237, p. 13, line 24 to p. 14, line 23; [CAR-D29-0012-0011](#), p. 0014; [CAR-OTP-2100-1796](#), p. 1797.

¹³²⁰ P-1990: [CAR-OTP-2124-0247-R02](#), para. 23

¹³²¹ D29-4011: [CAR-D29-0009-0680-R01](#), paras. 26, 41-42.

¹³²² D29-4013: T-277, p. 16, lines 4-13, p. 18, lines 1-16; and p. 19, lines 7-11. While D29-4013 was reluctant to conclusively state that these individuals were Seleka elements, it can be understood that they were Seleka elements; see in particular T-277, p. 16, line 6 to p. 19, line 11. See also, P-0992: T-092, p. 15, lines 15-22 and T-095, p. 44, line 15 to p. 45, line 11 (regarding Seleka operating in civilian clothing).

¹³²³ P-0884: T-055, p. 39, lines 5-11, p. 73, lines 6-23; T-057, p. 19, line 18 to p. 22, line 12; P-1990: T-237, p. 38, line 11 to p. 39, line 15, p. 43, line 21 to p. 43, line 15 to p. 44, line 2; P-1521: T-081, p. 34, lines 14-17, p. 67, line 27 to p. 68, lines 6; p. 80, line 28; P-0889: [CAR-OTP-2122-8146-R02](#), p. 8150, line 116; P-0889: T-111, p. 9, line 25 to p. 11, line 14; P-0992: [CAR-](#)

large base next to the airport, with Ngremangou as chief, where over 1000 ‘anti-balaka’ elements, many from Ouham/Bossangoa, were based in groups controlled by their respective chiefs, including Modibo, Bama and Houronti; multiple ex-FACA were also present there.¹³²⁴ By late December 2013, this was ‘by far the biggest base’.¹³²⁵ In fact, the ‘great majority’ of ‘anti-balaka’ who came to Bangui from the provinces settled in Boeing.¹³²⁶ The Chamber received a hand-drawn map setting out the locations of ten separate ‘anti-balaka’ bases as of early 2014.¹³²⁷ In a video filmed in January 2014, [REDACTED] can be seen claiming that 15,000 elements were present in [REDACTED] Boeing base.¹³²⁸

403. In such circumstances, unlawful activity on the part of unspecified ‘anti-balaka’ or other armed groups in Boeing/Cattin (or indeed, in PK5) cannot be automatically attributed to the RFACPP.¹³²⁹ For example, the alleged abduction and killing of P-1528’s [REDACTED] ‘anti-balaka’ cannot be attributed to the RFACPP, not least given P-1528’s understanding that Bossangoa ‘anti-balaka’ were responsible, and that [REDACTED] and in the vicinity of Proget, where ‘anti-balaka’ from northern CAR, including Bossangoa, were present in large numbers.¹³³⁰ Further, key details of this account (notably [REDACTED] interrogation as to his Muslim faith) comprise potentially anonymous hearsay recounted by an [REDACTED] who used to solicit P-1528 for charity,¹³³¹ and are uncorroborated despite the alleged public nature of this incident, as well as the high-profile nature of the victim and his family.¹³³²

404. Second, given that the evidence does not establish that the RFACPP’s conduct during 5th December Operation in Boeing/Cattin was unlawful (as set out above), evidence that Muslims residents left Boeing/Cattin during the 5th December Operation, or even due to the latter, cannot per se support Counts Five and Six.¹³³³

[OTP-2110-0048-R05](#), para. 64. See also [CAR-OTP-2066-5310](#) / [CAR-OTP-2127-4501](#); [CAR-OTP-2081-1769](#), [03:02 to 03:13] / [CAR-OTP-2122-2313](#), p. 2316, line 68 to p. 2317, line 78.

¹³²⁴ [REDACTED]; [CAR-D29-0008-0002](#), [01:20] to [01:41] / [CAR-D29-0006-0226](#), lines 15-19; P-1521: T-081, p. 34, lines 14-17, p. 67, line 27 to p. 68, lines 6, p. 80, line 28; P-0889: [CAR-OTP-2122-8146-R02](#), p. 8150, line 116; P-1786: T-197, p. 39, line 24 to p. 40, line 7.

¹³²⁵ P-0974: [CAR-OTP-2058-0165-R01](#), paras. 66-67.

¹³²⁶ P-2472: [CAR-OTP-2110-0355-R01](#), para. 26.

¹³²⁷ [CAR-OTP-2027-2311](#); see P-0889: [CAR-OTP-2027-2290-R02](#), paras. 49-50, 120; T-111, p. 12, lines 3-7; See also p. 9, line 25 to p. 11, line 14 (where P-0889 confirms that Yvon Donoh; Jean Richard Kota Oko from Yaloke; Yara Leroi from Yaloke, and Sylvestre Yagouzou were ‘anti-balaka comzones’ with groups or bases in Boeing).

¹³²⁸ [CAR-D29-0008-0002](#), [00:01:20] to [00:01:41] / [CAR-D29-0006-0226](#), lines 15-19.

¹³²⁹ See e.g. P-1528: [CAR-OTP-2048-0757-R05](#), paras. 22-26, 46-47, 62-63; T-178, p. 49, line 19 to p. 50, line 12; T-179, p. 78, line 17 to p. 79, line 15; P-2472: [CAR-OTP-2110-0355-R01](#), paras. 25-26, 39-45.

¹³³⁰ See P-1528: [CAR-OTP-2048-0757-R05](#), paras. 41-46, in particular 44-45; [CAR-OTP-2118-9146](#) (regarding location of College de la Paix, west of the airport; and compare the Yamwara / ‘Kokoro 2’ school, due south-east); P-1786: [CAR-OTP-2058-0200-R03](#), paras. 19, 21.

¹³³¹ P-1528: T-178, p. 34, line 16 to p. 35, line 21; T-179 p. 48, line 13 to p. 50, line 1.

¹³³² [REDACTED]; see P-1528: T-179, p. 6, line 26 to p. 8, line 18; [CAR-OTP-2048-0757-R05](#), para. 41.

¹³³³ See e.g., P-1528: [CAR-OTP-2121-2831-R01](#), paras. 14, 25; P-1647: T-194 p. 14, line 22 to p. 15, line 17; P-1339: T-155 p. 17, lines 23-1.

405. With regard the Boeing Market events, the evidence does not in any event establish that they specifically led to the departure Muslim residents of Boeing/Cattin. P-1528's claim that any Muslims who stayed behind 'risked being killed like' the Traders does not establish a causal link between the Traders' deaths and the departure of Muslims;¹³³⁴ it is simply his subjective, post-facto assessment of the dangers faced by Muslims who did not flee. Similarly, his evidence that 'after news of [the deaths of the Traders] spread, people started to leave,' only establishes that people started to flee in the period of time following the Boeing Market events, i.e. from approximately 8 am onwards on 5th December, and not because of them.¹³³⁵ Given the multiplicity of factors causing residents' departures in this period, discussed below, these are material distinctions.¹³³⁶

406. Likewise, departures caused by combat between RFACPP members and PK5-based Seleka and/or Muslim self-defence groups cannot support Count Five/Six. Boeing/Cattin and PK5 (including the area in between) remained active combat zones after 5th December, where the Seleka attacked the RFACPP and vice versa. These RFACPP attacks were not indiscriminate, disproportionate or otherwise unlawful. Seleka had retreated en masse to PK5 after 5th December, swelling the ranks of those Seleka based there prior.¹³³⁷ PK5 was an 'ammunition depot'.¹³³⁸ The Seleka conducted forays from PK5 to the Muslim cemetery, firing indiscriminately at the civilian population from vehicles as they passed through Boeing which triggered further attacks and counterattacks.¹³³⁹ Seleka and Chadian MISCA elements attacked RFACPP positions in Boeing, including around Yamwara.¹³⁴⁰ The Seleka also provided weapons to the various Muslim 'self-defence groups' – as many as 42 – positioned all around PK5.¹³⁴¹ The Muslim population of PK5 had 'destroyed all the houses of the non-Muslims' on the outskirts of PK5 as an act of 'revenge' after 5th December.¹³⁴² A self-defence group led by 'Tola' positioned itself in Boulata and

¹³³⁴ P-1528: [CAR-OTP-2048-0757-R05](#), para. 50.

¹³³⁵ P-1528: [CAR-OTP-2121-2831-R01](#), para. 24.

¹³³⁶ P-1528: [CAR-OTP-2121-2831-R01](#), para. 24 (where he notes that some residents did not leave immediately but rather after 'a few days').

¹³³⁷ P-0884: T-054, p. 43, lines 13-18 (regarding the Chadian ex-soldiers in PK5 who joined the Seleka on their arrival); P-2472: [CAR-OTP-2110-0355-R01](#), para. 46 (stating that Chadian Seleka were based in PK5; and that in January 2014, Goula Seleka who had been based in Miskine fled to PK5); P-0884: T-056, p. 10, lines 7-11.

¹³³⁸ P-0446: T-099, p. 41, line 1 to p. 42, line 5; [CAR-OTP-2076-1082](#), [10:43] to [11:49] / [CAR-OTP-2087-8944](#), p. 8949, line 176 to p. 8950, line 188.

¹³³⁹ P-0446: [CAR-OTP-2059-1546-R02](#), p. 1562, lines 568-588; [CAR-OTP-2059-1672-R02](#), p. 1688, lines 596-604; T-099, p. 36, line 16 to p. 37, line 12; P-1521: T-083, p. 14, lines 14-23.

¹³⁴⁰ P-1647: T-195 p. 23 line 21 to p. 27 line 14; [CAR-OTP-2065-4085](#) / [CAR-D29-0006-1326](#).

P-0487: T-206, p. 41, lines 10-15; see also [CAR-OTP-2065-4689](#) / [CAR-D29-0006-1317](#) (where Mr. Yekatom is seen referring to having to conduct a retreat); see also the Defence's submissions at ICC-01/14-01/18-2233-Conf-AnxA, p. 344-345, item #381.

¹³⁴¹ P-2472: [CAR-OTP-2110-0355-R01](#), paras. 26, 30.

¹³⁴² P-2472: [CAR-OTP-2110-0355-R01](#), para. 37.

‘received many attacks’;¹³⁴³ other groups were present in the Gbaya-Doubia and Fatima sectors of PK5, as were armed Seleka elements.¹³⁴⁴ The conflict continued ‘for a long period and there were many deaths, mostly on the Anti-Balaka side’.

ii) Muslim residents of Boeing/Cattin departed for a multiplicity of reasons

407. First, indiscriminate reprisal attacks on civilians by the Seleka in Boeing/Cattin on 5th December and the days following caused residents, including Muslims, to depart.¹³⁴⁵ During the Seleka counterattack in Cattin on the morning of 5th December, Seleka elements fired combat weaponry extensively and indiscriminately on the Cattin and Dameca Roads and surrounds, including directly into civilian residences and premises.¹³⁴⁶ In one video, Seleka elements blindly fire a vehicle-mounted machine gun over a wall in the direction of the *Foyer de Charité* health centre complex,¹³⁴⁷ which housed refugees at the time.¹³⁴⁸ The Seleka were also pillaging in Boulata, Cattin and Boeing.¹³⁴⁹ They burned homes in Boeing, and cause extensive destruction south of the Airport;¹³⁵⁰ the Muslim population of PK5 also took ‘revenge’ for the 5th December attack by burning homes on the outskirts of PK5.¹³⁵¹ [REDACTED], who was at [REDACTED] in Cattin on 5th December, encountered people fleeing the clashes who told her that the Seleka were going from ‘door to door’, burning homes and killing people with indiscriminate shooting, from

¹³⁴³ P-2472: [CAR-OTP-2110-0355-R01](#), para. 26.

¹³⁴⁴ P-1676: [CAR-OTP-2066-0105-R01](#), paras. 78-79.

¹³⁴⁵ See e.g. P-0884: T-057, p. 31, line 2 to p. 36, line 12 (and videos discussed with witness), p. 43, line 12 to p. 44, line 21; p. 46, line 13 to p. 47, line 4; P-1990: T-237, p. 33, lines 14-23; P-1704: T-128, p. 57, line 6 to p. 58, line 3; [CAR-OTP-2012-0523](#) [16:47] to [20:05] / [CAR-OTP-2118-5507](#), p. 5521, line 433 to p. 5522, line 482; TCV-0952: T-252, p. 19, lines 4-10; P-0446: T-099, p. 19, line 3 to p. 22, line 11, p. 36, line 17 to p. 37, line 12; and [CAR-OTP-2059-1672-R02](#), p. 1688, lines 596-609; [CAR-D29-0002-0115](#); [CAR-D29-0002-0117](#), p. 0117; see also, regarding continued Seleka attacks in Boeing after resignation of Djotodia, P-1521: T-083, p. 14, lines 10-23.

¹³⁴⁶ [CAR-OTP-2012-0523](#), [18:15] to [20:17] / [CAR-OTP-2118-5547](#), pp. 5562-5563, lines 459-491 (Seleka elements firing machine guns at random, into residential compounds and into the bush; elements promising to ‘clean up’ [the area]; elements firing an RPG at two men who appear at the end of the road, who turn out to be civilians; elements ‘emptying their cartridges at anything that moves’; a deserted village, the inhabitants of which have fled across the M’Poko river, in which direction elements also fire their guns); [CAR-OTP-2065-1568](#) / [CAR-D29-0006-0090](#) (a Seleka element firing a machine gun directly at a home, after being told that there were people in it); and see ICC-01/14-01/18-2515-AnxB, items #20-33, in particular: [CAR-OTP-2065-1604](#); [CAR-OTP-2065-1608](#) (masses of Seleka elements advancing and shouting, including in Arabic, while continuous light and heavy machine gunfire is heard); [CAR-OTP-2065-1632](#) (Seleka elements walking among houses in an abandoned village, firing continuously); [CAR-OTP-2065-1380](#) and [CAR-OTP-2065-1596](#) / [CAR-D29-0006-1447](#) (two Seleka elements firing machine guns at random into the bush while - one states, ‘we have to clean this place’); see also, [CAR-D29-0007-0196-R01](#), and prior Defence submissions in ICC-01/14-01/18-2561-Conf-AnxA, pp. 40-41, #24.

¹³⁴⁷ [CAR-OTP-2065-1448](#); See P-1839: T-172, p. 43, line 18 to p. 42, line 25; see also p. 42, line 7 to p. 43, line 11 (confirming that video [CAR-OTP-2065-1444](#), filmed one minute prior, is ‘right by’ the *Centre Foyer de Charité*), and [CAR-OTP-2118-9146](#) (for location of *Centre Foyer de Charité*; see southeast / bottom right sector of map, roughly 250 metres west of Dameca Intersection aka Cattin Crossroad).

¹³⁴⁸ The *Foyer de Charité* health centre complex contains the Mukassa Church; see D29-4011: [CAR-D29-0009-0680-R01](#), para. 43.

¹³⁴⁹ P-1839: T-172, p. 26, lines 2-6.

¹³⁵⁰ P-1704: T-128, p. 57, line 6 to p. 58, line 3; [CAR-D29-0003-0021](#).

¹³⁵¹ P-2472: [CAR-OTP-2110-0355-R01](#), para. 37.

Sagbado to Cattin.¹³⁵² She encountered men, women and children from Cattin who had fled their homes, carrying their luggage on their head.¹³⁵³ [REDACTED] and her companions were unable to return to their home from Cattin for fear of stray bullets.¹³⁵⁴

408. Second, rumours of imminent ‘anti-balaka’ attacks on Muslims caused departures from Boeing/Cattin. P-1528’s decision to [REDACTED] was due at least in part to an anonymous hearsay rumour that unspecified ‘anti-balaka’ were planning ‘to return and kill all Muslims in the area’.¹³⁵⁵ Once in PK5, P-1528 told his brother’s family to leave Cattin ‘immediately’, after having heard rumours that Cattin would be ‘cleansed’ of its Muslim population by unspecified ‘anti-balaka’; they heeded his warning and duly fled Cattin.¹³⁵⁶ Further rumours spread among the Muslims in PK5, that the ‘anti-balaka’ were planning to attack Muslim civilians that remained there.¹³⁵⁷ The justifiable climate of paranoia that appears to have driven Muslim civilians’ departures from Boeing/Cattin and PK5 in the extremely volatile prevailing security context are duly reflected in P-1528’s comments to the effect that, regardless of the truth or falsity of such unverifiable and unsourced rumours, they would be ‘taken into account’ because ‘lives were in danger’, without inquiries made as to their source; and it was preferable to inform and warn other Muslims so that they could ‘take precautions’.¹³⁵⁸

409. Third, the veritable explosion of anti-Muslim hostility and mob violence on the part of the civilian population effectively rendered Bangui (with the exception of PK5) uninhabitable for Muslims.¹³⁵⁹ Christian areas became ‘no-go zones’ where any Muslim civilians who ventured there could be killed, and vice versa.¹³⁶⁰ Boeing and Cattin were no exception. On the 5th, a mob of agitated local civilians was seen in Cattin, threatening to kill ‘all Muslims’.¹³⁶¹ After dismantling the Boeing Mosque, civilian youths proceeded to destroy the home of Ali Kamara,

¹³⁵² [REDACTED] (especially where witness confirms that the ‘door-to-door’ killings in Cattin corresponded to the Seleka elements’ indiscriminate shooting at inhabited residences, as seen in [CAR-OTP-2065-1568](#)); (where witness explains that some of these individuals were Christians that she later saw taking refuge at Padre Pio Church, who told her that they had fled because of these Seleka reprisals); [CAR-D29-0003-0051](#) (for location of Sagbado).

¹³⁵³ P-1839: T-172, p. 27, lines 15-18.

¹³⁵⁴ [REDACTED].

¹³⁵⁵ P-1528: [CAR-OTP-2048-0757-R05](#), para. 35; T-178, p. 58, lines 10-18.

¹³⁵⁶ P-1528: [CAR-OTP-2121-2831-R01](#), para. 26; T-178, p. 32, line 18 to p. 33, line 19.

¹³⁵⁷ P-1528: T-178, p. 40, lines 2-10.

¹³⁵⁸ P-1528: T-179, p. 54, line 3-9; T-178, p. 33, lines 9-14.

¹³⁵⁹ [CAR-OTP-2012-0523](#), [00:32:30] to [00:32:55] / [CAR-OTP-2118-5547](#), p. 5573, lines 830-834 (in which two Muslims are attacked by a mob); [CAR-D29-0009-0012](#) / [CAR-D29-0006-1432](#) (description by a photo-journalist of the pillaging of Muslims shops); see also, prior defence submission in ICC-01/14-01/18-2515-Conf-AnxC, pp. 1-2, item #3, Related Submitted Items (listing numerous videos and photographs in relation to the attacks on Muslims by the civilian population); TCV-0952: T-252, p. 19, line 15 to p. 22, line 4; [CAR-OTP-2012-0505](#) [06:20- 08:50, 10:55-11:35] / [CAR-D29-0006-0799](#), p. 2 line 16 to p. 5 line 3; p. 7 lines 9-14.

¹³⁶⁰ See e.g., P-1786: T-197, p. 78, lines 11-12; P-1521: T-084, p. 21, lines 22-28; [CAR-OTP-2075-2005](#), [00:00:00] to [00:00:28] / [CAR-D29-0006-1091](#), p. 1091, lines 6-12.

¹³⁶¹ P-1528: T-178, p. 31, lines 5-12.

muezzin of the Mosque.¹³⁶² Incidents of violence by Christian civilians against Muslims were a ‘daily occurrence’ in December and January in the neighbourhoods around PK5.¹³⁶³ In the lead-up to 5th December, Muslims in Boeing and Cattin were threatened (‘lawa-lawa’, meaning ‘vengeance’, being a common refrain) by their Christian neighbours, who saw them as complicit in the atrocities previously meted out by the Seleka in these neighbourhoods.¹³⁶⁴ P-2682 had fled to PK5 before the 5th December due to anti-Muslim threats, including from her Christian female neighbours.¹³⁶⁵ In fact, anti-Muslim hostility had been simmering among sectors of CAR’s non-Muslim community prior to 5th December,¹³⁶⁶ and the mass popular violence had precedent: in May 2011, the killing of two Christian children in Fatima sparked mass anti-Muslim riots, including in Boeing, where a mob of armed Christian civilians threatening to ‘exterminate’ Muslims pillaged the Boeing Market, before attacking [REDACTED] Trader Hassan ‘Délégué’.¹³⁶⁷ As a result of this climate of anti-Muslim hostility, Muslim residents of Boeing/Cattin were unable to return to their homes.¹³⁶⁸

410. Further, generalised insecurity that followed the Seleka period must also be taken into account. After fleeing his residence following Seleka exactions, D29-4013 remained at the airport refuge site until at least mid-2014, as Boeing was too unsafe to remain in the evenings.¹³⁶⁹

iii) OTP evidence on Counts Five/Six lacks reliability and/or specificity

411. Evidence as to unlawful conduct at ‘checkpoints’ in Boeing is insufficiently specific or reliable to support Counts Five/Six.¹³⁷⁰ P-1990’s anonymous hearsay claims as to abductions and killings at Yamwara of individuals who were stopped at checkpoints and found to have Muslims’ names

¹³⁶² D29-4011: [CAR-D29-0009-0680-R01](#), para. 21; P-1528: [CAR-OTP-2121-2831-R01](#), paras. 10, 14; see also, [CAR-OTP-2074-0075](#), [00:00:00] to [00:00:56] / [CAR-D29-0006-0001](#), p. 0001, lines 5-20. regarding the destruction of the Fouh Mosque by self-proclaimed ‘anti-balaka’) and [CAR-OTP-2107-1179](#), [00:00:00] to [00:00:47] / [CAR-D29-0006-0931](#), p. 0931, lines 6-13.

¹³⁶³ P-0884: T-057, p. 27, lines 3-10.

¹³⁶⁴ P-0884: T-057, p. 26, line 20 to p. 27, line 2; see also P-0461: [CAR-OTP-2031-0190-R01](#), para. 19 (regarding a ‘change’ in Christians’ attitudes towards Muslims after the Seleka arrived in Bambari; ‘they were saying things like “lawa-lawa”’); TCV-0952: T-252, p. 19, line 15 to p. 20, line 11, p. 21, lines 5-20; P-0291: T-052, p. 46, lines 18-27; P-1521: T-082, p. 83, line 28 to p. 84, line 5.

¹³⁶⁵ P-2682: T-018, p. 31, lines 3-23.

¹³⁶⁶ P-1739: [CAR-OTP-2054-1089-R01](#), paras. 27-28.

¹³⁶⁷ P-2682: T-018, p. 32, line 22 to p. 34, line 27, p. 35, line 28 to p. 36, line 10; P-0567: [CAR-OTP-2059-0084-R04](#), para. 17.

¹³⁶⁸ See also P-1528: [CAR-OTP-2048-0757-R05](#), paras. 48-49 (regarding his fleeing overseas with his family due to his ‘fear for their continued safety’ in CAR; he cited his inability as of March 2017 to see ‘a clear future’ for Muslims as well as his belief that ‘the problems are not over and [Muslims] personal safety is at risk’; he found things still ‘tense’ on his return in June 2014, i.e. Muslims had to disguise themselves to circulate, up until the Bangui Forum and in some areas, they were still unable to circulate; and he cited interreligious killings that still ‘cause [interreligious] tensions to rise’) and P-1528: T-178, p. 51, line 17 to p. 52, line 15; P-1990: T-237, p. 22, line 15 to p. 24, line 2; [CAR-OTP-2124-0247-R02](#), para. 24.

¹³⁶⁹ D29-4013: T-277, p. 20, line 24 to p. 22, line 8. See also D29-4011: [CAR-D29-0009-0680-R01](#), para. 43.

¹³⁷⁰ See e.g. P-2232: T-076, p. 16, line 19 to p. 17, line 4; see also P-1990: [CAR-OTP-2124-0247-R02](#), para. 35; T-236, p. 16, line 16 to p. 17, line 5 (where P-1990 claims that Muslims left the area around the school after the ‘anti-balaka’ occupied Yamwara – though he does not claim that they left because of said occupation).

in their phones comprise little more than confused rumours, not least given that the sole example he provided was a [REDACTED] who (per more anonymous hearsay) was captured by ‘anti-balaka’ in Sakai – i.e. kilometres from the Yamwara– before the 5th December, and then released.¹³⁷¹ In any event, his unreliable claims as to killings involving the ‘anti-balaka’ are lacking in key details, not least as to when these alleged incidents occurred, which is highly material given the limited period of time during which the RFACPP was based at Yamwara, and the evidence received as to ‘anti-balaka’ groups occupying the Yamwara after the RFACPP’s departure.¹³⁷² Moreover, to the extent that these claims relate to the RFACPP, they are inconsistent with corroborated evidence from multiple OTP ‘insider’ witnesses who confirmed that checkpoints were established around the Yamwara for legitimate and justified security reasons, as discussed below in Section IV.B.2.a)i).

412. Lastly, P-0954’s claims as to RFACPP elements’ involvement in killings of civilians Gbaya-Doubia cannot be relied upon, as they comprise his subjective conclusions based on media images showing the bodies of (what he understood as) civilians,¹³⁷³ and this inherently unsafe account is further rendered unreliable by P-0954’s manifest personal bias against Mr. Yekatom.

f) Destruction of the Boeing Mosque

i) P-1339’s unreliable account of the destruction of the Mosque

413. During his testimony, P-1339 initially stated that RFACPP elements were not involved in the destruction of the Mosque;¹³⁷⁴ he maintained this position when subsequently pressed, even denying that the group had even come across the Mosque at all during the 5th December Operation; and he continued to deny the group’s involvement, even when his prior inconsistent statement was put to him, stating the latter was incorrect, and citing ‘transcription problems’ in his statement.¹³⁷⁵ Whilst P-1339’s sworn testimony remained consistent, the Presiding Judge sought clarification for the divergence from P-1339’s statement and requested P-1339 to provide

¹³⁷¹ P-1990: [CAR-OTP-2124-0247-R02](#), paras. 32-33, 35 (regarding P-1990’s anonymous hearsay claims that ‘approximately 15 to 16 people were killed’ by unspecified ‘anti-balaka’; of the killing of a Muslim man by the ‘anti-balaka’ in Bimbo; and another unsourced claims as to the killing by unspecified ‘anti-balaka’ of a Christian who worked in PK5; the OTP omitted to examine P-1990 on any of these alleged killings during his examination). Regarding exhumations at Yamwara, see Section IV.B.2.b.v).

¹³⁷² P-1990: [CAR-OTP-2124-0247-R02](#), para. 32; P-1786: [CAR-OTP-2058-0200-R03](#), para. 63. See also [CAR-OTP-2041-0781](#) (a 2015 list of ‘ex-anti-balaka’ elements under Chief Yara Leroi at the ‘Etat Major de Yawara [sic]’ base); P-0889: T-111, p. 9, line 25 to p. 11, line 14 (where P-0889 confirms that Yara Leroi was an ‘anti-balaka comzone’ with groups or bases in Boeing).

¹³⁷³ P-0954: T-167, p. 52, line 2 to p. 58, line 20; [CAR-OTP-00000303-R01](#), p. 000001.

¹³⁷⁴ P-1339: T-152, p. 71 line 23 to p. 72, line 2; the Defence notes that P-1339 stated in Sango ‘*a fa a mosquée*’, which is excludes the speaker; and as such, ‘*on a détruit la mosquée*’ (as interpreted) must be understood the same way.

¹³⁷⁵ P-1339: T-152, p. 74 lines 15-20, T-154, p. 81 line 16 to p. 82, line 12; p. 85 lines 8 to p. 86 line 18; see also Section II.C.2.b.i).

the ‘right story’ to which P-1339 indicated that he was ‘completely confused’ and unable to respond’.¹³⁷⁶ After P-1339 requested ‘time’, the Presiding Judge adjourned the hearing for ten minutes, requesting the witness to ‘think about’ ‘who destroyed the Mosque’ and ‘who perhaps gave an order’; and on reconvening, P-1339 subsequently reversed his position and proceeded to claim that in fact the RFACPP had destroyed the Mosque on Mr. Yekatom’s orders.¹³⁷⁷ Following this sequence of events, P-1339’s account remains inherently unreliable. Whilst he was consistent in his in-court testimony denying that the RFACPP had destroyed the Mosque - including after his prior inconsistent statement had been put to him -he then fundamentally reversed his testimony negating the probative value of either version.

414. More broadly, the entirety of P-1339’s evidence on this count is catastrophically unreliable. It bears repeating that his initial testimony, which he repeatedly reiterated, was that RFACPP was not involved in the destruction of the Mosque. Under questioning, he repeatedly and drastically modified and/or reversed central aspects of his account, including when, how, and by whom¹³⁷⁸ the Mosque was destroyed. When pressed to explain prior inconsistencies, he simply proffered further lies.¹³⁷⁹ These specific contradictions are further compounded by his broader inconsistencies as regards the progression of the 5th December Operation.¹³⁸⁰

415. Satellite imagery contradicts, rather than corroborates, P-1339’s account. P-2193 did not positively find that the remains of the Boeing Mosque as depicted on satellite imagery exhibited signs of blackening that could indicate arson.¹³⁸¹ His inconclusiveness in this regard can be

¹³⁷⁶ P-1339: T-154, p. 87, lines 8-24, p. 88, lines 9-14.

¹³⁷⁷ P-1339: T-154, p. 88, lines 9-14, p. 88, line 20 to p. 89, line 10, p. 89, line 24 to p. 90, line 8.

¹³⁷⁸ P-1339: T-152, p. 74, lines 15-20; T-154: p. 81, line 16 to p. 82, line 9 and p. 86 lines 11-14 (that RFACPP elements noticed at 10 am while retreating that the civilian population had destroyed the Mosque during the 5th December Operation); T-154, p. 85, lines 15-21 (per initial statement: the Mosque was destroyed on 20 December by RFACPP members – not including Alkanto or Hourougai – who used rocket and grenades to destroy the walls, and burned the roof using gasoline and matches); T-154, p. 86, line 28 to p. 87, line 5, p. 89, line 24 to p. 90, line 8; T-160, p. 30, lines 1-16, p. 31, line 14 to p. 32, line 5 (that Alkanto fired a rocket at the Mosque and that an element named Hourougai Thibault brought petrol, and that they sprayed it and set it alight, at 6 am, i.e. at the outset of the 5th December Operation). T-160, p. 26, lines 22-26 (the Mosque was not destroyed on the same day that the Market was attacked i.e. not on 5th December); T-160, p. 27, lines 3-5 (they destroyed the Mosque while retreating from the Seleka counter-attack, at 7 am); and T-160, p. 31, line 17 to p. 32, line 5 (they destroyed the Mosque as the group advanced, at 6 AM, before the Market was attacked and before engaging the Seleka).

¹³⁷⁹ P-1339: T-160, p. 34, line 15 to p. 35, line 19 (where, when asked why he hadn’t cited Alkanto or Hourougai as elements involved in the destruction of the Mosque in his prior statement, he falsely claimed (twice) that in his statement he hadn’t cited anyone by person).

¹³⁸⁰ See above, Section II.C.2.b.v); and especially P-1339: T-155, p. 12, lines 18-27, T-159, p. 41, line 28 to p. 42, line 6; p. 76, lines 19-26 (where P-1339 claimed that Alkanto was in the sub-group that split off from [REDACTED], at the Eglise Baptiste Fondamantale, which is north of the Mosque and would have thus preceded it on the group’s progression south from Proget, and as such, [REDACTED], contrary to his claim); see also P-1339: T-159, p. 70, line 16 to p. 71, line 20 (for location of Eglise Baptiste Fondamentale vis-à-vis group’s progression south, per P-1339); see also, [CAR-OTP-2118-9146](#) (southwest of the airport, in the north of Kokoro 1 district).

¹³⁸¹ P-2193: [CAR-OTP-2127-6617](#), p. 6621 (‘Structural remains are visible and some may be blackened, indicating arson, but shadows from trees preclude complete assessment [emphasis added]’); see also five structures indicated with orange arrows in [CAR-OTP-2127-6626](#), p. 6627 at ‘Inset 1: 8 December 2013’; and see also T-019, p. 29, line 21 to p. 30, line 8 (where P-2193

understood as deliberate;¹³⁸² and notably the OTP did not clarify this point during his evidence. He also noted that the abundant vegetation and trees around the Mosque did not appear to be damaged, unlike other areas he analysed where burnt patches of grass were visible.¹³⁸³ Further, P-2193 found the satellite imagery of the Mosque to be inconsistent with rocket damage, given the manner of structural damage and lack of visible debris;¹³⁸⁴ that explosives ‘cause a different pattern of destruction’ to arson, as they ‘throw debris out and usually level the structure, meaning it’s gone’;¹³⁸⁵ and he stated generally that ‘roofless structures with skeletal interior remains’ were inconsistent with use of ‘high explosives’ or ‘heavy munitions’.¹³⁸⁶

416. Anonymous hearsay evidence of the involvement of unspecified ‘anti-balaka’ in the destruction of the Mosque is not corroborative of P-1339’s account, given the multiplicity of ‘anti-balaka’ groups present and active in Boeing on and after 5th December. The imam of the Mosque openly admitted that there was a tendency to automatically blame ‘anti-balaka’ for the destruction of mosques in CAR during the conflict.¹³⁸⁷

ii) Boeing Mosque was progressively dismantled by the civilian population

417. The Chamber received corroborated eyewitness evidence from two Boeing residents – one who lived within view of (and 50 metres from) the Mosque at the time;¹³⁸⁸ another, an ex-builder’s assistant who also lived in its proximity¹³⁸⁹ – that the Mosque was dismantled by youths in civilian attire using nail-pullers, hammers, and other tools;¹³⁹⁰ and that the roofing was removed and hauled away.¹³⁹¹ One witness came upon the scene while the youths were removing the second half of the roofing; the other witnessed the dismantling ‘from the beginning’.¹³⁹² Both witnesses stayed at the scene for a time, watching the youths dismantle the Mosque; one even walked around

is similarly unspecific as regards which structures indicate burning), p. 30, lines 13-24 (where, referring specifically to the Mosque, P-2193 merely notes that the roof is missing, and makes no mention of indicia of blackening); regarding the location of the Mosque, see also, [CAR-OTP-2122-4417](#), pp. 1-3.

¹³⁸² Cf. P-2193: [CAR-OTP-2127-6617](#), p. 6621 (for conclusive findings regarding blackening and arson in for six structures ‘towards the airport’ in ‘Inset 2’); and see also, T-019, p. 38, lines 5-11.

¹³⁸³ P-2193: T-019, p. 49, line 10 to p. 50, line 3.

¹³⁸⁴ P-2193: T-019, p. 79, lines 3-7.

¹³⁸⁵ P-2193: T-019, p. 43, lines 19-24.

¹³⁸⁶ P-2193: T-019, p. 67, lines 11-15; and see, p. 39, lines 15-22 (where he states that destruction will ‘stay visible’ unless the structure is repaired) and p. 58, line 4 to p. 59, line 3 (where he suggests that signs of arson would remain visible even after ‘it had rained [...] a few times’).

¹³⁸⁷ P-1528: T-179, p. 14, lines 2-11.

¹³⁸⁸ D29-4011: [CAR-D29-0009-0680-R01](#), para. 16; [CAR-D29-0010-0205](#); [CAR-D29-0010-0206](#); [CAR-D29-0010-0207](#); [CAR-D29-0008-0106](#) / [CAR-D29-0006-1405](#); [CAR-D29-0008-0108](#); [CAR-D29-0003-0206](#); D29-4013: T-277, p. 39, lines 4-24.

¹³⁸⁹ D29-4013: T-277, p. 5, lines 26-27, p. 7, lines 4-7; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 23-24.

¹³⁹⁰ D29-4013: T-277, p. 26 line 11 to p. 27 line 22 / D29-4011: [CAR-D29-0009-0680-R01](#), paras. 46, 49-50.

¹³⁹¹ D29-4013: T-277, p. 32, line 14 to p. 33, line 10; p. 45, lines 23-26; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 46, 48, 50.

¹³⁹² D29-4013: T-277, p. 45, lines 18-26; 47 lines 3-9; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 47, 49.

the Mosque to observe them.¹³⁹³ They both denied that the Mosque had been set on fire, or hit by a rocket,¹³⁹⁴ there was no smell of petrol in the air; the wooden framework under the roofing was untouched and showed no trace of fire, nor did the roofing itself.¹³⁹⁵ D29-4013 contrasted the state of the Mosque with that of the Gbaya-Doumbia Church, which he saw after it had been destroyed by explosives and fire: its devastated roofing framework; its blackened walls, and its melted roof.¹³⁹⁶ There can be no reasonable suggestion that both witnesses somehow failed to discern any trace of the purported impact of explosives and burning petrol upon the Mosque, including on its beige-white walls; or that any such traces had disappeared by the time they witnessed the youths dismantling the Mosque, not least given its small size.¹³⁹⁷

418. Three OTP [REDACTED] witnesses gave corroborative evidence that the Mosque was progressively dismantled. Not one claimed to have heard that the Mosque was attacked using explosives and burning petrol – this includes the Imam who heard from the Muezzin that the Mosque was ‘pillaged’ and ‘vandalised’ and its roofing removed;¹³⁹⁸ a [REDACTED], who said it was dismantled ‘little by little’;¹³⁹⁹ and P-0884, who stated that it was ‘broken’ and dismantled using nail pullers (i.e. the roofing removed with nail-pullers and the bricks manually).¹⁴⁰⁰ While P-0884 stated that the Mosque was dismantled by unspecified ‘anti-balaka’, Christians and the civilian population, he specified that this took place after 5th December.¹⁴⁰¹ His evidence thus contradicts P-1339 and is corroborative of D29-4013 and D29-4011, to the extent that ‘anti-balaka’ in civilian clothing may have been among the youths whom they saw removing the roofing and tiles of the Mosque.

2. YAMWARA SCHOOL

a) Overview of Yamwara

i) Heightened security was necessary and legitimate

419. The heightened security at Yamwara was necessitated by the following factors:

420. Seleka presence: Following unsuccessful efforts to oust the Seleka regime, Seleka forces

¹³⁹³ D29-4013: T-277, p. 32, line 3 to p. 33, line 3; p. 43 lines 25-27; D29-4011: [CAR-D29-0009-0680-R01](#), para. 47.

¹³⁹⁴ D29-4013: T-277, p. 31, line 20 to p. 32 line 1; p. 34, lines 3-6; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 48-49.

¹³⁹⁵ D29-4013: T-277, p. 31, line 25 to p. 32, line 1, p. 33, line 15 to p. 34 line 6; D29-4011: [CAR-D29-0009-0680-R01](#), paras. 49, 51.

¹³⁹⁶ D29-4013: T-277, p. 30, line 8 to p. 31, line 19.

¹³⁹⁷ See P-2193: T-019, p. 25, line 23 to p. 27, line 2 (regarding the visible results of fire damage to wooden structures, including the absence of roof, ‘blackened charred remains’, and white ash; and where P-2193 indicates these indicia on a photograph of a burned structure; see [CAR-OTP-2085-3122](#)); D29-4011: [CAR-D29-0009-0680-R01](#), para. 51.

¹³⁹⁸ P-1528: [CAR-OTP-2121-2831-R01](#), paras. 13-14; [CAR-OTP-2048-0757-R05](#), para. 47; T-178, p. 16, lines 5-15.

¹³⁹⁹ P-2682: T-017, p. 14, lines 11-17; p. 39, line 24 to p. 40, line 6.

¹⁴⁰⁰ P-0884: T-057, p. 56, line 12 to p. 57, line 10.

¹⁴⁰¹ P-0884: T-057, p. 56, line 12 to p. 57, line 13 (see also, where he stated that he had no information as to the involvement of FACA in the destruction of the Mosque).

continued to exact disproportionate reprisals against civilians. This was magnified in Boeing in December 2013 when the RFACPP mobilised at Yamwara,¹⁴⁰² and were subject to Seleka attacks.¹⁴⁰³ Notably, the Seleka relied on civilian informants to identify the wealthy residences, resulting in targeted exactions against the occupiers.¹⁴⁰⁴ Referred to as ‘B2’, certain informants identified FACA residences to the Seleka, resulting in the kidnapping and killing of some of these individuals.¹⁴⁰⁵

421. *Lack of weapons*: Lacking resources and significantly outgunned by the well-armed Seleka,¹⁴⁰⁶ groups opposing them, including the RFACPP, remained vulnerable.¹⁴⁰⁷ Insider witnesses confirmed that the RFACPP had limited weaponry,¹⁴⁰⁸ as depicted in contemporaneous videos showing members struggling to repair malfunctioning arms.¹⁴⁰⁹

422. *Checkpoints*: Facing widespread suspicion and limited resources, the RFACPP set up checkpoints near Yamwara to protect against Seleka forces. P-1839 and P-1647 confirmed these checkpoints aimed to identify and guard against enemy threats.¹⁴¹⁰ To secure the base from would-be Seleka informants, P-1839 indicated that checkpoints were used to monitor all passersby, including verification of recent calls to prevent any espionage.¹⁴¹¹ P-0487 confirmed the movement’s ongoing concerns over information leaks – particularly held by Ouandjio.¹⁴¹² Moreover, non-RFACPP affiliated civilians confirmed the existence of checkpoints and recognised the purpose to uncover and protect against Seleka sources.¹⁴¹³ Contrary to P-1990’s assertions however, the evidence does not establish that mere inclusion of a Muslim name would

¹⁴⁰² P-1839: T-173, p. 20, lines 3-13; For the existence of combats in Bangui between the Seleka and ‘anti-balaka’ groups around mid to end December 2013 see also P-1811: T-115, p. 10, lines 10-26; P-1704: T-128, p. 34, lines 14-22; as regard to exactions committed in Boeing by Seleka see article dated 12 December 2013 [CAR-D29-0002-0680](#), p. 0681. See also section IV.B.1.(b)(ii).

¹⁴⁰³ P-0487: T-204, p. 5, lines 4-19; P-0954: T-167, p. 52, line 2 to p. 53, line 18, p. 54, lines 14-22, p. 56, lines 16-26; [CAR-OTP-2065-4416](#) / [CAR-OTP-00001962](#); see also submissions made on this item in ICC-01/14-01/18-2233-Conf-AnxA, item #298 *contra* P-2475: T-133, p. 24, lines 10-12.

¹⁴⁰⁴ P-0487: T-203, p. 69, lines 17-25; P-0888: T-121, p. 10, line 13 to p. 11, line 12; TCV-0952: T-252, p. 7, line 26 to p. 8, line 8; p. 20, lines 20-24; P-0446: T-098 p. 94, line 10 to p. 95, line 1.

¹⁴⁰⁵ P-1647: T-195, p. 9, lines 8-21; P-0487: T-203, p. 67, lines 23-28, p. 69, lines 13-16; P-0889: T-111, p. 4, line 7 to p. 5, line 11; P-0487: T-203, p. 69, line 26 to p. 70, line 7; P-2027: T-040, p. 46, lines 12-16; [CAR-OTP-2078-0059-R03](#), para. 46; P-0884: T-057, p. 48 line 21 to p. 49 line 7.

¹⁴⁰⁶ P-2027: T-040, p. 44, line 14 to p. 45, line 19; P-0876: T-086, p. 13, lines 11-26.

¹⁴⁰⁷ P-0446: T-099, p. 23, line 13 to p. 24, line 16; [CAR-OTP-2023-1812](#), [00:17:38] to [00:18:18] / [CAR-OTP-2118-5597](#), p. 5602, lines 134-139; See also P-2251: T-044, p. 10, lines 2-12.

¹⁴⁰⁸ P-1839: T-173, p. 38, lines 4-17; P-1786: T-197, p. 32, lines 18-20; P-1647: T-195, p. 21, line 19 to p. 22, line 7; P-0487: T-204, p. 22, lines 12-18.

¹⁴⁰⁹ [CAR-OTP-2065-0396](#), [00:02:02] to [00:02:15] / [CAR-OTP-2122-2284](#), p. 2284, lines 42-43; [CAR-OTP-2065-4849](#), [00:01:30] to [00:02:10] / [CAR-OTP-2118-5685](#), p. 5688, lines 51-54; [CAR-OTP-2065-4851](#) / [CAR-OTP-2127-7161](#), p. 7163, lines 3-6; [CAR-OTP-2012-0523](#), [00:44:30 to 00:44:44].

¹⁴¹⁰ P-1839: T-173, p. 20, lines 3-13; P-1647: T-195, p. 31, lines 8-19.

¹⁴¹¹ P-1839: T-173, p. 21, lines 1-16.

¹⁴¹² P-0487: T-204, p. 6, line 25 to p. 7, line 3. See also [CAR-OTP-2065-3977](#) / [CAR-OTP-2127-3686](#).

¹⁴¹³ P-1704: T-128, p. 33, line 28 to p. 34, line 13.

automatically lead to an arrest.¹⁴¹⁴ Indeed, P-1990 was not a RFACPP member, was stopped on one occasion without interrogation,¹⁴¹⁵ and in any case, acknowledged that he was informed as to events at the checkpoints.¹⁴¹⁶ Contemporaneous footage also contradicts P-1990's suppositions and depicts Mr. Yekatom directing the population to a checkpoint established for their security. In particular, it shows two people passing through the checkpoint without incident having returned from the prominently Muslim neighbourhood PK5.¹⁴¹⁷

ii) Yamwara occupants

(a) RFACPP

423. By mid-December 2013 the RFACPP arrived at Yamwara and set up their base there.¹⁴¹⁸ Insider witnesses all confirmed that Ouandjio was situated at Yamwara,¹⁴¹⁹ and that Mr. Yekatom resided outside,¹⁴²⁰ approximately 30 minutes by foot from Yamwara,¹⁴²¹ and was not therefore residing in the same building as Ouandjio.¹⁴²² Witnesses confirmed that Mr. Yekatom infrequently visited Yamwara, and that such visits were brief often lasting only a few minutes,¹⁴²³ making it difficult to observe him.¹⁴²⁴ When he did visit, it was typically for specific purposes, such as meeting with Sangaris forces.¹⁴²⁵ In contrast, Ouandjio maintained a permanent presence in Yamwara,¹⁴²⁶ and

¹⁴¹⁴ P-1990: T-236, p. 32, lines 18-27; [CAR-OTP-2124-0247-R02](#), para. 32. This erroneous assumption is further rebutted by the fact that no such religious distinction existed in CAR nomenclature see e.g. Beina (Muslim name for non-Muslim) and Alkanto (non-Muslim nickname for Muslim) (see P-1839: T-173, p. 71, lines 18-26).

¹⁴¹⁵ P-1990: [CAR-OTP-2124-0247-R02](#), para. 34.

¹⁴¹⁶ P-1990: T-236, p. 32, line 21.

¹⁴¹⁷ [CAR-OTP-2065-1989](#) / [CAR-OTP-2127-4438](#); see also submissions made on these items in ICC-01/14-01/18-2233-Conf-AnxA, items #115, 117.

¹⁴¹⁸ For the videos listed in the present footnote, if the metadata file are not submitted into evidence, the Defence refers to the 'Document Date' field mentioned in JEM/Nuix. Videos [REDACTED] on 7 December 2013 of Mr. Yekatom depicting the RFACPP in the bush [CAR-OTP-2065-0396](#); [CAR-OTP-2065-0580](#) with submissions ICC-01/14-01/18-2233-Conf-AnxA, pp. 59-62, item# 50; [CAR-OTP-2065-0899](#). Videos filmed by P-1819 on 10 December 2013 of Mr. Yekatom in Proget [CAR-OTP-2065-3184](#); [CAR-OTP-2065-3208](#). First few videos [REDACTED] at the Yamwara School on 13 December 2013: [CAR-OTP-2065-3384](#) with submissions ICC-01/14-01/18-2233-Conf-AnxA, pp. 345-347, item #382. More precisely the arrival appears to have occurred around the date of 13 December 2013: Video [CAR-OTP-2065-3412](#), [00:00:10] to [00:00:18] depicting Rodrigue Momokama at Yamwara stating 'Ce sont nos éléments qui étaient en brousse et c'est hier qu'on les fait ramener ici'; the Defence notes that in the translation [CAR-OTP-2125-0470](#), lines 12-13, the word 'hier' is omitted but is nevertheless clearly audible and comprehensible in the video.

¹⁴¹⁹ P-1839: T-170, p. 17, line 17 and p. 21, lines 15-17. See also P-1786: [CAR-OTP-2058-0200-R03](#), para. 21; P-1647: T-195, p. 17, line 24 to p. 18, line 2.

¹⁴²⁰ P-1839: T-173, p. 29, line 27 to p. 30, line 1; P-1786: [CAR-OTP-2058-0200-R03](#), para. 22.

¹⁴²¹ P-1839: T-173, p. 30, lines 2-7; P-1647: T-195, p. 17, lines 16-19.

¹⁴²² P-1839: T-173, p. 30, lines 8-16; P-1647: T-195, p. 19, lines 5-17.

¹⁴²³ P-1786: T-197, p. 42, lines 7-15.

¹⁴²⁴ P-1839: T-173, p. 29, lines 15-23; P-1647: T-195, p. 16, lines 1-7. Video footage shows that Mr. Yekatom was often elsewhere than Yamwara see [CAR-OTP-2065-5192](#); [CAR-OTP-2065-5196](#) / [CAR-OTP-00002083](#); [CAR-OTP-2065-5244](#) / [CAR-OTP-00002175](#) see also ICC-01/14-01/18-2233-Conf-AnxA, items #423, 443; [CAR-OTP-2065-5324](#) / [CAR-OTP-2118-5698](#); ICC-01/04-01/18-2233-Conf-AnxA, item #336, 338; [CAR-OTP-2065-1889](#) / [CAR-OTP-2130-0759](#); [CAR-OTP-2065-1917](#) ICC-01/14-01/18-2233-Conf-AnxA, items # 66, 118, 120.

¹⁴²⁵ P-1839: T-173, p. 30, lines 17-22. See also [CAR-OTP-2065-4268](#) and ICC-01/14-01/18-2515-Conf-AnxB, item #61.

¹⁴²⁶ P-1647: T-195, p. 16, lines 1-7.

as set out in section IV.B.1.(a) undertook independent tasks in relation to his distinct unit. Of note, Beina – aligned within Mr. Yekatom’s distinct unit - was also present and located at Yamwara.¹⁴²⁷

(b) Presence of individuals distinct from RFACPP at Yamwara

(i) Presence of civilians at Yamwara

424. During the 2013-2014 period, the Yamwara School was not fenced,¹⁴²⁸ with paths going through its grounds.¹⁴²⁹ A community water fountain was located in the middle,¹⁴³⁰ and was frequently used by the local community, even during the presence of the RFACPP.¹⁴³¹ Insider witnesses indicated that local children came onto the base to sell food or collect water and unequivocally confirmed that these children had no affiliation with the RFACPP.¹⁴³² The evidence demonstrates that the RFACPP’s presence on the base did not disrupt or threaten the local community, as daily activities proceeded without interruption.¹⁴³³

(ii) Presence of other armed groups at Yamwara

425. P-1839 indicated that individuals from groups originating in Bossangoa were present at Yamwara whilst RFACPP was based there.¹⁴³⁴ Among them was a marabout named Modibo.¹⁴³⁵ These individuals were distinct from the RFACPP and did not integrate with them.¹⁴³⁶ Furthermore, P-1786 stated that following the RFACPP’s departure along the PK9-Mbaïki axis,¹⁴³⁷ the base was

¹⁴²⁷ P-1786: [CAR-OTP-2058-0200-R03](#), para. 21 [REDACTED]; P-1839: T-170, p. 17, lines 3-6 and about the proximity between Mr. Yekatom and Beina, p. lines 21-22: ‘*son bras droit, c’est-à-dire que celui qui...qu’il est beaucoup proche, c’est M. Habib Beina.*’

¹⁴²⁸ P-1647: T-195, p. 17, lines 1-3; P-1990: T-237, p. 6, lines 20-24; P-1716: T-148, p. 26, lines 7-12; See also drone pictures [CAR-OTP-2126-1297](#); [CAR-OTP-2126-1300](#); [CAR-OTP-2126-1324](#); [CAR-OTP-2126-1349](#); [CAR-OTP-2126-1356](#); [CAR-OTP-2126-1362](#).

¹⁴²⁹ P-1647: T-195, p. 17, lines 4-7.

¹⁴³⁰ P-1839: T-172, p. 61, lines 18-21; P-1990: T-237, p. 6, line 25 to p. 7, line 7; See also drone pictures [CAR-OTP-2126-1324](#) and [CAR-OTP-2126-1400](#).

¹⁴³¹ P-1839: T-172, p. 61, lines 23-27; P-1990: T-237, p. 7, lines 1-7; P-1786: T-197, p. 35, line 23 to p. 36, line 6; P-1716: T-148, p. 26, lines 22-24; P-0487: T-206, p. 33, line 16 to p. 34, line 9.

¹⁴³² P-1786: T-197, p. 33, line 28 to p. 34, line 19, p. 35 line 23 to p. 36, line 11, p. 43, lines 2-6; P-1647: T-194, p. 23, line 15 to p. 24, line 5, p. 25, lines 5-9, p. 26, line 22 to p. 27, line 5, p. 28, lines 13-16. See also [CAR-OTP-2120-0305](#) [00:00:51] to [00:00:54]; [CAR-OTP-2117-1168](#) (children carrying water buckets); [CAR-OTP-2117-1173](#) (families at fountain); [CAR-OTP-2117-1179](#) (children at fountain). See also ICC-01/14-01/18-2132, paras. 14-17; ICC-01/14-01/18-2132-Conf-AnxA, items #17, 18, 20.

¹⁴³³ P-1990: [CAR-OTP-2124-0247-R02](#), para. 34; P-1786: T-197, p. 44, lines 16-19 and P-1647: T-194, p. 23, lines 21-25.

¹⁴³⁴ P-1839: T-172, p. 3, line 25 to p. 4, line 12; T-173, p. 13, line 5 to p. 14, line 15; P-1786: T-197, p. 38, line 25 to p. 39, line 22.

¹⁴³⁵ P-1839: T-173, p. 13, line 5 to p. 14, line 15 with reference to [CAR-OTP-2065-2903](#), [00:00:00]. See also P-1786: T-197, p. 48, line 19 to p. 49, line 9 with reference to [CAR-OTP-2012-0523](#) / [CAR-OTP-2118-5547](#).

¹⁴³⁶ P-1839: T-172, p. 3, lines 25-26 in which the Prosecution recalls clearly that its question is for groups not controlled by Mr. Yekatom ‘*En réponse à une question concernant les groupes anti-balaka autres que ceux qui étaient commandés par M. Yekatom*’; see also further confirmation of the fact that those individuals did not join the group at T-173, p. 14, lines 19-22.

¹⁴³⁷ P-1647: [CAR-OTP-2050-0654-R02](#), para. 37 who situates the departure before 10 January 2014. To the contrary, P-1839 situates the departure from Yamwara after the resignation of Djotodia but before the departure of the Seleka from Bangui (P-

subsequently occupied by elements associated with Mokom.¹⁴³⁸

b) Lapo N’Gomat incident at Yamwara

i) [REDACTED] apprehended due to Seleka links

426. On 24 December 2013, on the day of the funeral [REDACTED], the [REDACTED] were stopped at a checkpoint near Yamwara by Alkanto who recognized P-1811. The evidence shows that they were brought back to the base to Ouandjio because they were identified as being linked to [REDACTED]. Saint-Cyr Lapo was subsequently mistreated at Yamwara and disappeared thereafter.

(a) [REDACTED] trip

427. Save for P-0967, the [REDACTED] witnesses corroborate the fact that the group was stopped earlier in the day at a checkpoint by armed men they qualified as ‘anti-balaka’, whilst travelling back [REDACTED].¹⁴³⁹ [REDACTED] was searched and the group was allowed to proceed through the checkpoint following verification that the vehicle was not a Seleka vehicle in disguise.¹⁴⁴⁰ P-0967 is the only witness to claim that [REDACTED] was searched after [REDACTED] had already been taken to the house.¹⁴⁴¹ However, as detailed below, it became apparent during her testimony that her recollection of the events was unclear, and that she included details she could not have known except through a document provided by [REDACTED], P-1654.

428. The witnesses also recalled that this first stop was at the same checkpoint as the one they were stopped at later that day, or close by.¹⁴⁴² It can be reasonably inferred that at the first stop, the RFACPP members adhered to the security protocols and searched vehicles to prevent Seleka entry.¹⁴⁴³ Following security clearances, the [REDACTED] and its passengers continued on their route without incident.¹⁴⁴⁴

1839: T-170, p. 40, lines 3-16) ; P-1839 further suggests that the group was still at Yamwara when they went to a mediation meeting (P-1839: T-173, p. 7, lines 11-15) which occurred around 21-22 January 2014 (TCV-0952: T-250, p. 12, lines 3-7).

¹⁴³⁸ P-1786: T-197, p. 61, lines 3-14.

¹⁴³⁹ P-1811: T-115, p. 9, lines 22-25; [CAR-OTP-2058-0003-R05](#), paras. 20-21; P-1704: T-128, p. 32, line 24 to p. 33, line 26; P-1716: [CAR-OTP-2053-0062-R05](#), para. 23; P-1705: T-212, p. 14, line 20 to p. 15, line 5.

¹⁴⁴⁰ P-1705: T-212, p. 15, lines 1-5; P-1811: [CAR-OTP-2058-0003-R05](#), para. 20; P-1704: T-128, p. 34, lines 5-13.

¹⁴⁴¹ P-0967: T-200, p. 25, lines 24-27; [REDACTED], p. 24, lines 12-16 ([REDACTED]).

¹⁴⁴² P-1705: T-212, p. 27, line 27 to p. 28, line 2 (*‘c’est le même barrage’*); P-1716: T-148, p. 18, lines 4-6 (*‘C’est la barrière que nous avions franchie dans un premier temps’*); P-1704: [CAR-OTP-2054-1136-R05](#), para. 23 (*‘derrière la base’*); P-1811: T-115, p. 10, lines 7-9 (*‘ce n’était pas loin’*).

¹⁴⁴³ P-1704: T-128, p. 33, line 28 to p. 34, line 13: *‘Ils sont... ils étaient à la recherche des Séléka et des armes également, parce qu’à l’époque, les Séléka utilisaient le véhicule [REDACTED] pour se balader et commettre des... des... des exactions. C’est ainsi que les Anti balaka étaient obligés de fouiller’*

¹⁴⁴⁴ P-1811: [CAR-OTP-2058-0003-R05](#), paras. 20-21; P-1716: [CAR-OTP-2053-0062-R05](#), para. 23; P-1705: T-212, p. 15, lines 1-5; P-1704: [CAR-OTP-2054-1136-R05](#), para. 23.

(b) The woman wore traditional CAR clothing and were not identifiable

429. Pertinently, the group was not identifiable as Muslim. The men who accompanied the women were all non-Muslims and wore regular clothes.¹⁴⁴⁵ The women described the clothes they wore that day as traditional attire also worn by non-Muslims. P-1811 stated clearly that they were dressed ‘*simplement avec un mouchoir de tête*’ and were not ‘*identifiables comme musulmanes*’ by their clothes.¹⁴⁴⁶ P-0967 confirmed this and specified that she was wearing a scarf on her head similar to those worn by non-Muslims in CAR: ‘*Et le voile, je le porte un peu comme le font les chrétiennes quand elles portent les foulards de tête*’.¹⁴⁴⁷

(c) Links to [REDACTED] known by Alkanto

430. The group was arrested for the sole reason that P-1811 was recognised by Alkanto as [REDACTED].¹⁴⁴⁸ In particular, P-1811 testified that she was called out by a man who appeared to be the leader of the checkpoint and asked her whether she recognised him.¹⁴⁴⁹ Whilst she could not recall his name,¹⁴⁵⁰ P-1811 recognised Alkanto as he used to work [REDACTED].¹⁴⁵¹ P-1811 further recalled that the members would have declared ‘*Oh ! Nous avons mis la main sur [REDACTED]*’.¹⁴⁵² Indeed, [REDACTED] was known to be close to Djotodia. [REDACTED], P-0967’s [REDACTED] and P-1811’s [REDACTED]; worked [REDACTED].¹⁴⁵³ It is these [REDACTED] to Djotodia as well as P-1811’s presence near Yamwara - amongst a group of unrecognisable individuals from outside the neighbourhood - which aroused reasonable suspicion amongst the members.

431. As attested by P-1839, these initial suspicions solidified when the members found a Seleka card or cards on the men during searches at the checkpoint and that it was on this basis that Alkanto took the decision to send the group to Ouandjio.¹⁴⁵⁴ Whilst the accounts of [REDACTED] varied

¹⁴⁴⁵ P-0967: T-199, p. 41, lines 1-8.

¹⁴⁴⁶ P-1811: [CAR-OTP-2058-0003-R05](#), para. 22.

¹⁴⁴⁷ P-0967: T-199, p. 40, lines 17-27; see also T-200: p. 39, line 25 to p. 40, line 5. This was also observed in real time as female CAR witnesses traditionally wear scarves irrespective of religion see e.g. P-2082, D29-6016.

¹⁴⁴⁸ P-1811: [CAR-OTP-2058-0003-R05](#), para. 17; P-0487: T-206, p. 74, line 22.

¹⁴⁴⁹ P-1811: [CAR-OTP-2058-0003-R05](#), para. 23.

¹⁴⁵⁰ P-1839 clarified that Alkanto was in charge of this checkpoint see P-1839: T-173, p. 65 lines 1-3.

¹⁴⁵¹ P-1811: [CAR-OTP-2058-0003-R05](#), para. 25.

¹⁴⁵² P-1811: T-114, p. 17, lines 25-27.

¹⁴⁵³ P-0967: T-200, p. 22, lines 4-9; P-1705: T-212, p. 11, lines 2-9; P-1811: [CAR-OTP-2058-0003-R05](#), para. 17. See also P-0884: T-056, p. 14, lines 5-7.

¹⁴⁵⁴ P-1839: T-170, p. 28, lines 20-22, p. 30, lines 19-21; T-173, p. 73, lines 19-28. See also P-1839: T-170, p. 28, lines 20-22: ‘[...] Donc; il [...] a dit à ses éléments de... de les fouiller les poches. Et les deux hommes parmi eux avaient des cartes séléka. Et de là-bas, Alkanto avait de les emmener au niveau de Cœur de Lion, [REDACTED]’; T-173, p. 73, lines 14-16.

as to whether the card was found at the checkpoint or base,¹⁴⁵⁵ it is undisputed that at least one military card was shown or found during searches. P-1839 is the only witness to provide a detailed description of the card, *‘Les cartes avaient la même forme que la carte d’identité, mais écrite dessus « Séléka »... « Coalition Séléka », c’est bien identifié dessus»*.¹⁴⁵⁶ P-1839’s recollection is consistent with the fact that Seleka identification cards were circulated as early as April 2013.¹⁴⁵⁷ Having found the military card, further searches revealed a hidden SIM card on one of the women.¹⁴⁵⁸

432. Alkanto’s vigilance was further heightened by personal grievances against P-1811 [REDACTED]. P-1704 recalled Alkanto’s name and confirmed he accused P-1811 of mistreating one of his friends [REDACTED],¹⁴⁵⁹ adding that he wanted revenge for that.¹⁴⁶⁰ P-1705 and P-0967 both confirmed Alkanto’s remarks towards P-1811.¹⁴⁶¹ When pressed on his assumption that they were recognised as Muslims, P-1705 could only offer that the ‘FACA’ recognised [REDACTED], blaming her behaviour towards another soldier.¹⁴⁶² P-1704 also noted that it was the links to [REDACTED] which prompted Alkanto’s hostile attitude,¹⁴⁶³ and recalled that Alkanto had indicated that he was a Muslim and that the Seleka’s mistreatment of him as a soldier is what led him to the RFACPP.¹⁴⁶⁴ This assessment is corroborated by P-1839 who recounted that Alkanto’s real name was Abdoulaye, he had lived with Muslims since his childhood, and spoke Arabic.¹⁴⁶⁵ P-1839 also confirmed that the reason the group was stopped was because Alkanto knew the women very well [REDACTED].¹⁴⁶⁶

433. Evidently, in addition to Alkanto’s personal vendetta towards P-1811, the group was suspected

¹⁴⁵⁵ P-1705: T-212, p. 31, line 25 to p. 32, line 1 (at the base); P-1811: [CAR-OTP-2058-0003-R05](#), para. 36 (at the base, according to what she heard from P-1704 even though P-1704 did not mention a card at all); P-1716 changed his version several times: [CAR-OTP-2053-0062-R05](#), para. 27 (at the checkpoint); T-147, p. 13, lines 16-18 (at the base); T-148, p. 24, line 23 to p. 25, line 6 (at the checkpoint).

¹⁴⁵⁶ P-1839: T-170, p. 33, lines 1-5.

¹⁴⁵⁷ P-2050: [CAR-OTP-2076-0911-R02](#), para. 61; T-240, p. 27, line 10 to p. 28, line 8; see also photographs of such identification cards: [CAR-OTP-2076-1428](#); [CAR-OTP-2076-1435](#); [CAR-OTP-2076-1449](#); [CAR-OTP-2076-1450](#).

¹⁴⁵⁸ P-1839: T-173, p. 76, lines 20-23.

¹⁴⁵⁹ P-1704: T-128, p. 37, lines 17-28.

¹⁴⁶⁰ P-1704: T-128, p. 38, lines 1-5: *‘... Alkanto, il voulait venger son ami qui... a été maltraité par (...) [REDACTED].’*

¹⁴⁶¹ P-1705: T-211, p. 21, lines 24-26: *‘Et l’un d’eux a reconnu [REDACTED] en disant que : « C’est toi qui as maltraité l’un des nôtres [REDACTED]. » C’est ainsi qu’ils nous ont demandé de les suivre à l’état-major.’*; P-0967: T-200, p. 43, lines 5-20.

¹⁴⁶² P-1705: T-211, p. 22, lines 5-13: *‘Q. (...) Qu’est-ce qui leur a fait penser que vous étiez musulmans ? R. Mais je ne sais pas, je n’en sais rien, parce que, parmi nous (...) il y en a qui connaissaient (...) les mamans avec qui on était. (...) ces FACA qui étaient là ont pu reconnaître [REDACTED], plus particulièrement [REDACTED], en disant que : ‘Toi, comme tu es [REDACTED], il y a l’un des nôtres qui travaillait là-bas, tu l’avais maltraité.’*

¹⁴⁶³ P-1704: [CAR-OTP-2054-1136-R05](#), para. 27: *‘(...) Il s’est adressé [REDACTED] et leur a dit : « Vous êtes [REDACTED] », et elles ont confirmé que tel était le cas. C’est la raison pour laquelle ils avaient adopté une attitude hostile à notre égard.’*

¹⁴⁶⁴ P-1704: T-128, p. 38, lines 6-9.

¹⁴⁶⁵ P-1839: T-170, p. 30, lines 17-18; T-173, p. 71, lines 18-26.

¹⁴⁶⁶ P-1839: T-170, p. 30, lines 17-18; T-173, p. 71, line 27 to p. 72, line 5.

of being Seleka informants based on concrete facts – namely, [REDACTED] Djotodia and the discovery of Seleka military cards. This position is supported by P-1716's account that were referred to as 'B2' during the search,¹⁴⁶⁷ and confirmed by P-1839.¹⁴⁶⁸

ii) Mr. Yekatom did not order the mistreatment of Lapo N'Gomat

434. The individual accounts of [REDACTED] are tainted by witness contamination, which significantly compromises the weight of each testimony.¹⁴⁶⁹

(a) Context of evidence contamination among the witnesses

435. The [REDACTED].¹⁴⁷⁰ Whilst this in the abstract may be reconciled, in the present circumstances, it was apparent that the flagrant contamination seeped throughout the evidence heard.¹⁴⁷¹

(i) P-1654's letter as the original source of contamination

436. A first major source of witness contamination is the letter written by the late P-1654 [REDACTED]. P-0967 indicated during her testimony that [REDACTED] provided her with a letter written by P-1654 which contained information on the Yamwara incident.¹⁴⁷² She confirmed that she read the letter multiple times,¹⁴⁷³ and admitted that it influenced her testimony¹⁴⁷⁴ and led to modifications to her statement during the familiarisation process.¹⁴⁷⁵

437. P-1705 also confirmed that he took information from P-1654's letter to make significant changes to his testimony,¹⁴⁷⁶ including the central allegation that Mr. Yekatom would have been present during an alleged encounter with P-1654 – an allegation which did not feature in P-1705's original statement.¹⁴⁷⁷ P-1705 explained that as P-1654 could not testify he considered it his duty to provide the information therein i.e. effectively circumventing the formal procedural safeguards at

¹⁴⁶⁷ P-1716: [CAR-OTP-2053-0062-R05](#), para. 29.

¹⁴⁶⁸ P-1839: T-173, p. 73, line 6.

¹⁴⁶⁹ ICC-01/14-01/18-1975-Conf, para. 53; ICC-01/14-01/18-2044, para. 7.

¹⁴⁷⁰ P-1811: T-115, p. 6, line 15 to p. 8, line 5 as regard to her relation with [REDACTED]; P-1704: T-128, p. 30, lines 5-27 as regard to his relationship with [REDACTED]; P-1716: T-148, p. 9, line 26 to p. 10, line 8; [CAR-OTP-2053-0062-R05](#), para. 22 as regard to his link with the [REDACTED] through his friendship with [REDACTED] (P-1705); P-0967: T-199, p. 29, line 24 to p. 30, line 20 as regard to her relationship with P-1811 and [REDACTED] (P-1654).

¹⁴⁷¹ ICC-01/14-01/18-1181-Conf, paras. 35-37; ICC-01/14-01/18-1224-Conf, para. 22.

¹⁴⁷² P-0967: T-200, p. 29, line 7 to p. 30, line 28, p. 35, lines 25-28; While given to the Registry, the letter is not submitted into evidence (see Registry's email "RE: Decision on the Yekatom Defence Urgent Request for Order in Relation to P-0967" dated 15 February 2023 16:26).

¹⁴⁷³ P-0967: T-200, p. 35, lines 12-18.

¹⁴⁷⁴ Influence on P-0967's knowledge of [REDACTED] see P-0967: T-200, p. 28, line 20 to p. 29, line 11; Influence as regard to the name of Bodios who would have been at the checkpoint where the group was stopped, see P-0967: T-200, p. 31, lines 4-10, p. 35, lines 19-24, p. 36, lines 1-9; General influence on the names of individuals involved in the Yamwara School incident, see P-0967: T-200, p. 35, lines 16-18.

¹⁴⁷⁵ P-0967: T-200, p. 56, line 19 to p. 57, line 18.

¹⁴⁷⁶ P-1705: T-212, p. 34, line 28 to p. 35, line 19.

¹⁴⁷⁷ P-1705: T-212, p. 41, line 3 to p. 42, line 6.

this Court.¹⁴⁷⁸ As remarked by the Presiding Judge, P-1705 had difficulty distinguishing between what he witnessed and what [REDACTED] told him orally or through the letter.¹⁴⁷⁹

(ii) *Contamination through contacts amongst involved witnesses*

438. Contrary to usual procedures, the [REDACTED] witnesses were each aware of one another's involvement in these proceedings despite the protections granted. P-0967 openly admitted that [REDACTED] and P-1705 knew that she was going to testify.¹⁴⁸⁰ P-1704 confirmed that the events were discussed [REDACTED],¹⁴⁸¹ and that [REDACTED].¹⁴⁸² Similarly P-1716 believes he indeed discussed the events with P-1705 and P-1704.¹⁴⁸³ Additionally, an OTP investigation report refers to a meeting scheduled with P-1654 where the latter introduced to the investigators P-1705, P-1716 and P-1704 as potential witnesses of Saint-Cyr Lapo's murder.¹⁴⁸⁴

439. No efforts were undertaken to protect against, or at least minimise, witness contamination, as group appointments were held to discuss the potential testimony of each witness. P-0967 readily admitted having talked to other individuals in order to supplement her testimony and explained she asked [REDACTED] P-1705 for the name of the individual she previously called the '[REDACTED]' and the '[REDACTED]' which explains her newfound knowledge of P-1704's name.¹⁴⁸⁵ Naturally, P-0967 also discussed events after the fact with P-1811 who provided her with information as to the content of discussions she had in Gbaya with Mr. Yekatom during the events.¹⁴⁸⁶ P-1704 also admitted only learning of the visits of P-1654 at Yamwara followings discussions held with P-1654 [REDACTED],¹⁴⁸⁷ with whom [REDACTED].¹⁴⁸⁸ P-1654 also fed P-1705 with information on the alleged threats made against [REDACTED] by the group present at Yamwara.¹⁴⁸⁹

¹⁴⁷⁸ P-1705: T-212, p. 56, lines 23-21: '[...]/[REDACTED]'. The Defence further recalls its submissions concerning the unreliability of P-1654's testimony (see ICC-01/14-01/18-1181-Conf, paras. 33-38; ICC-01/14-01/18-1990-Conf, paras. 24-25).

¹⁴⁷⁹ P-1705: T-212, p. 42, lines 11-14: '*il semble que le témoin raconte ce qui se trouve dans [REDACTED] ou ce dont il a parlé avec [REDACTED], et il est évident qu'il a des difficultés à faire la distinction entre sa propre perception, ses impressions et ce qui proviennent de sources tierces, disons. Ce qui est confirmé par ce que nous entendons*'.

¹⁴⁸⁰ P-0967: T-200, p. 36, lines 26-28.

¹⁴⁸¹ P-1704: T-128, p. 60, lines 11-14.

¹⁴⁸² P-1704: T-128, p. 60, lines 17-21; p. 61, lines 3-24; On [REDACTED] (P-1705) also being aware of the complaint made [REDACTED] see P-1705: T-212, p. 54, line 22 to p. 55, line 2.

¹⁴⁸³ P-1716: T-148, p. 34, lines 11-23.

¹⁴⁸⁴ [CAR-OTP-00000168-R01](#); Confirmed by P-1704: T-128, p. 58, line 27 to p. 59, line 20, p. 70, line 25 to p. 71, line 10; Confirmed by P-1716: T-148, p. 10, lines 11-21; Confirmation that P-1705 knew about P-1716's involvement in the investigation, see P-1705: T-212, p. 47, lines 9-23. The Defence also notes that after multiple denegation as regard to [REDACTED] before the meeting with OTP investigator, P-1705 finally admitted that they were all transported there by [REDACTED], see P-1705: T-212, p. 55, lines 8-14.

¹⁴⁸⁵ P-0967: T-200, p. 20, line 26 to p. 21, line 8; p. 36, line 26 to p. 37, line 7; p. 63, lines 20-28.

¹⁴⁸⁶ P-0967: T-200, p. 47, lines 9-23; p. 48, lines 12-14; p. 52, lines 5-7.

¹⁴⁸⁷ P-1704: T-128, p. 53, lines 10-15.

¹⁴⁸⁸ P-1704: T-128, p. 55, lines 1-3; Confirmed also by P-1705: T-212, p. 13, lines 4-10.

¹⁴⁸⁹ P-1705: T-212, p. 25, line 26 to p. 26, line 3.

440. The fact that the witnesses [REDACTED] would have discussed their testimony does not per se exclude their evidence. However, in this particular case, the discussions led witnesses to significantly alter their testimonies and add information they did not personally experience. They did so with full knowledge that such collusion would have been prohibited. This is evident in relation to P-1705 who initially denied having discussed the events with P-0967¹⁴⁹⁰ or P-1716¹⁴⁹¹ despite them stating otherwise.¹⁴⁹² P-1705 further denied the fact that [REDACTED] – which would have included P-1654 - organised the meeting with OTP investigators,¹⁴⁹³ and that [REDACTED] prior to encounter with the OTP.¹⁴⁹⁴ Whilst P-1705 eventually conceded that [REDACTED] collectively attended OTP meetings,¹⁴⁹⁵ his propensity to obfuscate the truth strikes at the core of his testimony and, given P-1705's heavy reliance on P-1654's letter, the testimony of P-1654.

(b) Inconsistencies between accounts

441. P-1839 and P-1811 represent the most reliable testimonies of the incident. P-1839 is the sole 'independent' witness on the Yamwara incident, and her testimony exposes significant falsehoods from other witnesses. Of note, P-1839 recalled the names of members who interacted with her and [REDACTED] during that incident,¹⁴⁹⁶ and provided a detailed account of her mistreatment of Saint-Cyr Lapo. [REDACTED], P-1811 provided a relatively impartial account, having had minimal contact with others since the incident and no external influence.¹⁴⁹⁷ Unlike her companions at Yamwara that day, P-1811 adhered strictly to her personal experience.

442. Conversely, the numerous inconsistencies amongst the testimonies of P-1704, P-1705, and P-1716 reveal an apparent collusion aimed at incriminating Mr. Yekatom. This effort, however, is marked by irreconcilable contradictions, both among their own accounts and in direct opposition to the reliable testimonies of P-1811 and P-1839.

443. The circumstances surrounding the alleged undressing of the women illustrate how evidence has

¹⁴⁹⁰ P-1705: T-212, p. 51, line 28 to p. 52, line 8 *contra* P-0967: T-200, p. 20, line 26 to p. 21, line 8, p. 36, line 26 to p. 37, line 7, p. 63, lines 20-28.

¹⁴⁹¹ P-1705: T-212, p. 13, lines 11-23, p. 47, lines 9-16 *contra* P-1716: T-148, p. 34, lines 11-23.

¹⁴⁹² See above.

¹⁴⁹³ P-1705: T-212, p. 53, lines 12-18.

¹⁴⁹⁴ P-1705: T-212, p. 54, lines 19-23.

¹⁴⁹⁵ P-1705: T-212, p. 55, lines 8-14.

¹⁴⁹⁶ P-1839: T-170, p. 28, lines 15-19.

¹⁴⁹⁷ P-1811: T-115, p. 23, line 25 to p. 24, line 1, p. 24, lines 2-17, p. 26, lines 11-13; P-1811 specified she was only [REDACTED] that she would be contacted to take her statement and that she never had [REDACTED] directly: T-115, p. 27, lines 1-15.

been altered. P-1716 claims this took place outside Ouandjio's house in view of the men,¹⁴⁹⁸ adding details about a young person taking their clothes, though he struggled with specifics when questioned.¹⁴⁹⁹ This account, however, was contradicted not only by P-1811 and P-0967,¹⁵⁰⁰ but also by P-1839,¹⁵⁰¹ as well as by P-1704 and P-1705.¹⁵⁰² This example, among others, indicates that some witnesses did not testify truthfully.

444. A major contradiction concerns Mr. Yekatom's presence during the events. As outlined below, evidence analysis shows that, contrary to [REDACTED] testimonies and the OTP's pre-trial theory,¹⁵⁰³ Mr. Yekatom was neither present upon the group's arrival nor did he order harm to Saint-Cyr Lapo; rather, he arrived afterward and assisted the group.

(c) Mr. Yekatom was not at the base when the group arrived

445. P-1704's testimony, aimed at placing Mr. Yekatom at the centre of events, is contradicted by others present. P-1704 claimed Mr. Yekatom was at Yamwara upon the group's arrival, allegedly introduced to the entire group by Alkanto,¹⁵⁰⁴ and that he ordered the men to be beaten.¹⁵⁰⁵ However, all other witnesses present disagree:¹⁵⁰⁶ P-1811 categorically stated Mr. Yekatom was not there upon arrival and was only seen later in the evening;¹⁵⁰⁷ P-0967 met him for the first time

¹⁴⁹⁸ P-1716: T-148, p. 27, lines 20-23: 'Q. (...) Vous dites, au paragraphe 38 de votre déclaration, [REDACTED] ont été obligées à se déshabiller. Et je comprends de votre déclaration que ça s'est également passé à l'extérieur; c'est bien ça ? R. [11:53:32] C'est bien cela. C'est vrai.'

¹⁴⁹⁹ P-1716: [CAR-OTP-2053-0062-R05](#), para. 38; T-147, p. 10, lines 12-18, p. 11, lines 5-8; T-148, p. 28, lines 10-19.

¹⁵⁰⁰ P-1811: T-115, p. 19, lines 1-18: 'Q. [10:24:32] Je vous remercie de cette précision. Quand, ensuite, vous rentrez à l'intérieur de la maison et que les hommes restent à l'extérieur, on est d'accord que c'est à ce moment-là qu'on vous demande de vous déshabiller; c'est bien ça ? R. [10:24:58] C'est cela.'; P-0967: T-200, p. 45, lines 4-11: 'Je passe à un autre thème maintenant, [REDACTED]. À l'audience, vous avez indiqué avoir été conduite à l'intérieur de la maison et c'est à l'intérieur de cette maison qu'on vous a demandé de vous déshabiller. Je ne vous demande pas, encore une fois, de nous dire ce que vous nous avez dit, j'ai juste une précision à vous demander à ce sujet. Est-ce qu'on est bien d'accord qu'à aucun moment, vous n'avez été déshabillée en sous-vêtements à l'extérieur de la maison ? R. C'est cela.'

¹⁵⁰¹ P-1839: T-173, p. 77, lines 22-27: 'Q. (...) Donc, si je vous dis qu'un témoin a dit, devant cette Chambre, que, au moment de votre arrivée à la base il a été demandé aux femmes d'être déshabillées à l'extérieur, alors vous êtes d'accord avec moi que cette personne ne dit pas la vérité ? R. [15:24:48] Beh, je suis là pour la vérité. C'est archifaux. Me GUISSÉ : [15:24:57] Et avant que M. le procureur ne demande je vous donne les références, il s'agit de P-1716, [CAR-OTP-2053-0062](#), paragraphe 38'.

¹⁵⁰² P-1704: [CAR-OTP-2054-1136-R05](#), para. 31 (Only mentions the women's headdresses being taken); P-1705: T-212, p. 31, lines 3-8: 'Q. [11:43:41] [...] Alors, dites-nous, est-ce que vous avez vu les femmes de votre groupe ayant été forcées de se déshabiller à l'extérieur de la maison ? Est-ce que vous avez réellement vu cela ? Voilà ma question. R. [11:44:34] Concernant [REDACTED], elles ont été conduites à l'intérieur de la maison. Elles étaient dépouillées de tout ce... tout ce qu'elles portaient sur elles. Nous, on était à l'extérieur et ce n'est qu'après que nous avons constaté cela.'

¹⁵⁰³ ICC-01/14-01/18-723-Conf, paras. 446-449.

¹⁵⁰⁴ P-1704: [CAR-OTP-2054-1136-R05](#), paras. 32, 35; T-128, p. 43, lines 2-6, p. 43, line 12 to p. 44, line 9.

¹⁵⁰⁵ P-1704: [CAR-OTP-2054-1136-R05](#), para. 41; T-128, p. 19, lines 4-7.

¹⁵⁰⁶ Noting that [REDACTED] arrived at Yamwara at the same time see P-1811: [CAR-OTP-2058-0003-R05](#), paras. 27-30; P-0967: T-199, p. 38, lines 9-12; P-1705: T-211, p. 21, line 26 to p. 22, line 2; T-212, p. 18, lines 6-18.

¹⁵⁰⁷ P-1811: T-114, p. 20, lines 4-6: 'Quand ils nous ont amenés, il n'était pas là. C'était le soir. Le soir, il est venu (...). Mais le... au début, quand nous sommes arrivés, lui-même n'était pas là'.

inside the house;¹⁵⁰⁸ and P-1839, [REDACTED], affirmed she did not see Mr. Yekatom at any point that day.¹⁵⁰⁹

446. The other men's accounts further contradict P-1704's testimony. P-1705 stated that the leader at Yamwara upon arrival was 'Boudjos,' with Mr. Yekatom arriving only in the evening.¹⁵¹⁰ In another account, P-1716 identified the leader as 'Coeur de Lion',¹⁵¹¹ a detail confirmed by P-1839,¹⁵¹² and testified he only saw Mr. Yekatom the following morning when [REDACTED] allegedly paid for his release after the group had departed.¹⁵¹³ The Defence notes that P-1716 only introduced Mr. Yekatom into his account during the familiarisation process prior to testifying.¹⁵¹⁴ This late addition, including the unlikely demand attributed to Mr. Yekatom, exemplifies the incriminating details introduced by [REDACTED] witnesses before and during the hearings.

(d) Mr. Yekatom did not give any order to mistreat Saint-Cyr Lapo

447. P-1839 is the key witness regarding the mistreatment of the men, particularly the abuse of Saint-Cyr Lapo. In court, P-1839 [REDACTED], stating, [REDACTED].¹⁵¹⁵ Despite the difficulty of recounting these events, she was clear that Mr. Yekatom was not at the base upon the group's arrival and did not appear near Ouandjio's house until her departure.¹⁵¹⁶ This directly contradicts all accounts placing Mr. Yekatom at the base during the group's arrival, the questioning of the men, or Lapo's mistreatment.

448. P-1839 provided detailed testimony regarding [REDACTED] during the event. She firmly stated that Mr. Yekatom was absent both at the group's arrival at Yamwara school and during the abuse: '*Je dis et je redis: M. Yekatom n'était pas là, sur le fait*'.¹⁵¹⁷ P-1839 explained that [REDACTED],

¹⁵⁰⁸ P-0967: T-199, p. 49, lines 9-11: '*Et la seule personne qui s'était présentée, c'était M. Rombhot. Lorsqu'il est entré, il s'est tapé la poitrine pour se présenter à nous comme étant M. Rombhot. C'est à ce moment-là que je l'ai connu.*'

¹⁵⁰⁹ P-1839: T-173, p. 83, lines 5-8: '*Q. (...) lorsque Coeur de Lion était présent au moment de l'arrivée du groupe, M. Yekatom n'était pas présent ? R. Non, il n'était pas là.*'

¹⁵¹⁰ P-1705: T-211, p. 14, lines 1-4, and answering OTP on whether Mr. Yekatom was there during Saint-Cyr Lapo's mutilation: T-211, p. 27, lines 3-4: '*R. Non, lorsque Saint-Cyr a été passé à tabac, il n'était pas là. C'est lorsque [REDACTED] est venu, qu'il est arrivé et qu'ils ont discuté.*', see also Defence confrontation with his previous statement: T-212, p. 24, lines 11-27.

¹⁵¹¹ P-1716: [CAR-OTP-2053-0062-R05](#), para. 40; T-147, p. 15, lines 14-24.

¹⁵¹² P-1839: T-170, p. 28, lines 20-24.

¹⁵¹³ P-1716: T-147, p. 17, lines 12-19.

¹⁵¹⁴ P-1716: [CAR-OTP-2135-4118-R01](#) modifying [CAR-OTP-2053-0062-R05](#), para. 49. '*Ajout : Lorsque [REDACTED] leur a remis les 80.000 F, Rambo, qui était présent, a dit que je serai libéré si les tchadiens de la FOMAC traversent la barrière de PK12 pour rentrer chez eux.(...)*'

¹⁵¹⁵ P-1839: T-170, p. 29, lines 14-20; P-1839 is the sole witness to mention the torture of two men on that day, a detail that remains unclarified in court noting the witness received Rule 74 assurances and was assisted by counsel (P-1839: T-170, p. 26, line 16 to p. 27, line 15, p. 28, lines 11-14).

¹⁵¹⁶ P-1839: T-173, p. 83, lines 5-8, p. 84, lines 7-9: '*R. Vous voulez parler de ce qui se passe au niveau de Coeur de Lion ? Q. Oui, oui, ce... ce jour-là, avec le... ce groupe-là. R. Ce jour-là, Madame, je dis et je redis : M. Yekatom n'était pas là, sur le fait.*'

¹⁵¹⁷ P-1839: T-173, p. 83, lines 5-8, p. 84, lines 7-9.

viewing it as a way to prove [REDACTED],¹⁵¹⁸ and affirming that ‘(...) [REDACTED].’¹⁵¹⁹ As the [REDACTED] is best positioned to recount the events. Additionally, P-1839 cannot be suspected of bias in Mr. Yekatom's favour - having left the RFACPP with resentment toward him after Seda's death-¹⁵²⁰ and with no incentive to protect him by misrepresenting events.

449. P-1839's testimony directly contradicts that of [REDACTED], who have made multiple untruthful assertions seemingly aimed at placing Mr. Yekatom at the scene. A thorough review of evidence shows that P-1704's and P-1705's accounts not only conflict with P-1839's account but also with each other regarding events involving Saint-Cyr Lapo.

450. Indeed, P-1704 had already given a false account when claiming Mr. Yekatom ordered the men to be beaten at their arrival at the base, but he went a step further in alleging that Mr. Yekatom is the one who ordered a [REDACTED].¹⁵²¹ This was directly contradicted by P-1839,¹⁵²² and inconsistent with the other male witnesses who appeared before the Chamber. Notably, P-1705 placed Mr. Yekatom's arrival after the abuse,¹⁵²³ while P-1716, in another inaccurate claim, stated he witnessed a man [REDACTED].¹⁵²⁴ Although he placed ‘*Coeur de Lion*’ at the scene, P-1716 was unclear about any orders,¹⁵²⁵ asserting only that [REDACTED] was present.¹⁵²⁶ However, P-1811 and P-0967 testified they were inside the house during the mistreatment,¹⁵²⁷ which P-1839 confirmed.¹⁵²⁸ P-1705 only confirmed the men's presence.¹⁵²⁹

451. These discrepancies and divergent accounts can be contextualised by the [REDACTED] and P-1654's apparent ‘dying wish’ that someone be held accountable for the [REDACTED] suffering, even if it involved inaccurate or false testimony.

(e) *Mr. Yekatom arrived in the evening after Saint-Cyr Lapo's abuse*

(i) *Mr. Yekatom's interactions with the women*

452. P-1811 testified that the [REDACTED] could only hear Saint-Cyr Lapo's scream, which

¹⁵¹⁸ P-1839: T-170, p. 29, lines 4-6: ‘(...) je confirme aussi d'avoir fait des choses horribles ce jour, juste pour gagner aussi leur confiance.’ To link with P-1839's impression that the group did not trust her: T-170, p. 16, line 27 to p. 17 line 2: ‘ils ont dit : il faut qu'on te mette en observation [...] ils n'avaient pas assez confiance en moi’.

¹⁵¹⁹ P-1839: T-170, p. 29, lines 23-24: ‘R. Sur... Non, sur ce fait, personne ne m'a ordonné, non. Mais, moi, je voulais aussi faire ça pour que personne ait de soupçons sur moi. Donc, voilà. (...)’.

¹⁵²⁰ P-1839: T-171, p. 81, lines 1-12, 26-27.

¹⁵²¹ P-1704: T-128, p. 49, lines 8-21: [REDACTED].

¹⁵²² P-1839: T-170, p. 29, lines 23-24.

¹⁵²³ P-1705: T-211, p. 45, lines 20-26.

¹⁵²⁴ P-1716: T-148, p. 27, line 27 to p. 28, line 18, also [CAR-OTP-2053-0062-R05](#), para. 39.

¹⁵²⁵ P-1716: T-148, p. 30, lines 4-17.

¹⁵²⁶ P-1716: T-148, p. 29, line 19 to p. 30, line 3.

¹⁵²⁷ P-1811: T-114, p. 21, lines 24-27, p. 22, lines 16-19; P-0967: T-199, p. 43, lines 3-6, p. 46, lines 16-18.

¹⁵²⁸ P-1839: T-173, p. 77, line 28 to p. 78, line 4.

¹⁵²⁹ P-1705: T-212, p. 32, lines 26-27.

eventually stopped.¹⁵³⁰ She consistently placed Mr. Yekatom's arrival after this point, specifying in direct examination that '*ça a un peu duré*' before he entered the house, by which time night had fallen.¹⁵³¹ P-1811 stated clearly that, upon entering the house, the women were asked to undress by female guards;¹⁵³² another individual then entered, asked questions, and instructed them to get dressed.¹⁵³³ Mr. Yekatom arrived only after this point,¹⁵³⁴ aligning with P-1839's account that after Saint-Cyr's mistreatment, she returned to the mango tree near the checkpoint and did not see Mr. Yekatom.¹⁵³⁵

453. In contrast, P-0967's contradictory testimony placing Mr. Yekatom's arrival during Saint-Cyr's mistreatment is unclear.¹⁵³⁶ P-0967 appeared to suggest that Mr. Yekatom entered the house, spoke briefly, and left while Saint-Cyr Lapo was still crying,¹⁵³⁷ yet she confused his arrival with that of another individual who told the women to get dressed.¹⁵³⁸ Unlike P-1811's clear chronological account of the incident,¹⁵³⁹ P-0967's description was inconsistent, with the derogatory words she attributed to Mr. Yekatom contradicting both P-1811's account of the same scene and P-0967's own previous testimony, as highlighted during examination by the Defence.¹⁵⁴⁰ P-1811, who provided a precise timeline, clarified that it was another individual's presence—not Mr. Yekatom's—during which they could still hear Saint-Cyr Lapo.¹⁵⁴¹ Despite P-0967's attempts to add incriminating details, both witnesses testified that after Mr. Yekatom left

¹⁵³⁰ P-1811: [CAR-OTP-2135-2512-R01](#) (Corrections on statement [CAR-OTP-2058-0003-R05](#)), paras. 35, 37: '(...) *On n'a plus entendu les cris de Saint-Cyr; il était donc tué.*'

¹⁵³¹ P-1811: T-114, p. 28, lines 21-24: '*Q. [12:03:27] Et quand Rambo est entré dans la maison, est-ce que vous pouvez estimer combien de temps après l'interrogatoire de Saint-Cyr c'était ? R. [12:03:49] Ça a un peu duré. La nuit était déjà tombée. C'était après que Rambo est arrivé. Et lorsqu'il est arrivé, on n'écoutait plus la voix de Saint-Cyr.*'

¹⁵³² P-1811: [CAR-OTP-2058-0003-R05](#), para. 31.

¹⁵³³ P-1811: [CAR-OTP-2058-0003-R05](#), paras. 33-35.

¹⁵³⁴ P-1811: [CAR-OTP-2058-0003-R05](#), para. 38: '*Puis ROMBHOT, leur chef, est entré dans la maison.(...)*'

¹⁵³⁵ P-1839: T-173, p. 78, lines 8-15, p. 83, lines 5-8, p. 84, lines 7-9.

¹⁵³⁶ P-0967: T-199, p. 43, line 15 to p. 44, line 18.

¹⁵³⁷ P-0967: T-199, p. 52, lines 9-12; T-200, p. 46, lines 22-28, p. 48, lines 11-27, p. 50, lines 5-13, p. 55, lines 17-28.

¹⁵³⁸ P-0967: T-199, p. 45, lines 9-12: '*Peu de temps après, un de leurs chefs est entré. Je ne sais pas, est-ce que c'était lui Rombhot ou c'était quelqu'un d'autre ? Je ne le savais... je ne... je... je n'ai plus grand souvenir de cela. Et il a juste chassé les jeunes filles qui sont rentrées dans la chambre. Et il nous a demandé de nous rhabiller; ce que nous avons fait.*', then during the Defence examination: T-200, p. 50, line 14-22 '*Q. Alors, je veux être sûre de bien comprendre votre déposition. Donc, si je comprends bien, là, vous êtes en train de me dire que la personne qui a donné l'ordre aux filles de sortir et qui vous a demandé de vous rhabiller, vous me confirmez que ce n'est pas Rombhot; c'est bien ça ? R. Oui, c'est bien clair. Je vous ai dit que la personne qui nous a ordonné de nous rhabiller, je ne la connais pas parce qu'il faisait sombre; il était difficile d'identifier. Il y a un homme qui est entré, qui a donné instruction, et les filles sont entrées dans la chambre. Et cet homme a donné l'ordre... nous a donné l'ordre de nous rhabiller. Il faisait sombre.*', and another version introducing other men: T-200, p. 51, lines 25-26 '*(...) Il y a plusieurs personnes, plusieurs hommes qui sont entrés dans la maison, ils entraient, sortaient, nous injuriaient, nous insultaient, mais il y a une seule personne qui s'est présentée en disant que c'était lui, Rombhot, et il a parlé à [REDACTED] en gbaya.*'; see also T-200, p. 51, line 1 to p. 52, line 12.

¹⁵³⁹ P-1811: [CAR-OTP-2058-0003-R05](#), para. 38.

¹⁵⁴⁰ P-0967: T-200, p. 65, lines 9-10: '*R. Je ne sais pas si j'ai dit que Rombhot ne nous avait pas insultées ou injuriées. Je m'en tiens à cela.*'

¹⁵⁴¹ P-1811: [CAR-OTP-2058-0003-R05](#), paras. 33-35; Specifically at para. 35 '*Pendant ce temps-là, on entendait Saint-Cyr crier à l'extérieur. (...)*'

the house at Yamwara, they did not see him again that night.

(ii) *Irreconcilable contradictions between the men's accounts*

454. What Mr. Yekatom is supposed to have done after his arrival at Yamwara is also a source of numerous contradictions among the male witnesses. While the women only saw him in the house, P-1705, P-1716, P-1704 and P-1654 (in his statement) gave different accounts on when Mr. Yekatom arrived at the base and what happened exactly. All their testimonies were designed to be incriminating in the sense that they were aimed at putting Mr. Yekatom at the centre of their accounts even if they had not placed him there before.

455. In his attempt to follow P-1654's script, P-1705 provided an incoherent account. First, P-1705 altered his testimony as in his statement he claimed that at their arrival at the base, they had been introduced to '*Coeur de Lion, Boudjos et Rhombot*'¹⁵⁴² and only mentioned the presence of 'CB' and 'Coeur de Lion' when P-1654 arrived at Yamwara.¹⁵⁴³ In court, after indicating that Mr. Yekatom only arrived in the evening when P-1654 allegedly came to Yamwara,¹⁵⁴⁴ P-1705 added that when they arrived at the base, Coeur de Lion was not there and that he would have only arrived with Mr. Yekatom.¹⁵⁴⁵ This account contradicts P-1839's testimony, which indicated that Ouandjio was already present when the group arrived and during Saint-Cyr Lapo's mistreatment.¹⁵⁴⁶

456. Second, during direct examination, P-1705 gave contradictory accounts of his location during Saint-Cyr Lapo's abuse. Responding to Prosecution questioning about his prior testimony, in which he claimed to have heard Saint-Cyr's scream from a building, P-1705 confirmed, '*on était dans la deuxième maison*' indicating a different house than where the women were.¹⁵⁴⁷ Moments later, however, he claimed to be an eyewitness,¹⁵⁴⁸ implying Saint-Cyr Lapo was also in the second house.¹⁵⁴⁹ When confronted with his previous statement that he last saw Saint-Cyr Lapo after the abuse as he was taken to another building, he responded, '*Je ne me souviens pas vraiment*

¹⁵⁴² P-1705: T-212, p. 24, line 11 to p. 25, line 2.

¹⁵⁴³ P-1705: T-212, p. 41, lines 3-21; on the change made because of P-1654's document: T-212, p. 42, lines 2-5.

¹⁵⁴⁴ P-1705: T-211, p. 26, line 27 to p. 27, line 4: '*Non, lorsque Saint-Cyr a été passé à tabac, il n'était pas là. C'est lorsque [REDACTED] est venu, qu'il est arrivé et qu'ils ont discuté.*'

¹⁵⁴⁵ P-1705: T-211, p. 39, lines 5-14.

¹⁵⁴⁶ P-1839: T-170, p. 28, lines 20-24, p. 29, line 25.

¹⁵⁴⁷ P-1705: T-211, p. 36, line 23 to p. 37, line 2: '*Q. Merci. C'est... Je souhaitais obtenir un éclaircissement sur ce point. Il y a autre chose que... qui se trouve au paragraphe 36 de votre déclaration. Vous dites ici que vous étiez dans le bâtiment et que vous l'avez entendu crier quelque chose, il disait quelque chose à propos de ses oreilles; est-ce que vous vous souvenez de cela ? [REDACTED]*'

¹⁵⁴⁸ P-1705: T-211, p. 37, lines 15-23.

¹⁵⁴⁹ P-1705: T-211, p. 38, lines 8-15: '*Q. Monsieur le témoin, ce matin, c'est la page 17 du transcrit, vous avez expliqué qu'à un moment donné, il commençait à faire nuit et on l'entendait commencer à agonir. Est-ce que vous pouvez nous expliquer ce que vous... à quoi vous faisiez référence ? C'était à quel moment que vous avez entendu Saint-Cyr commencer à agonir ? [REDACTED].*'

de cela.¹⁵⁵⁰

457. According to P-1654's untested written statement, '[REDACTED] that day, stating 'ROMBOT' wanted to see him, [REDACTED].¹⁵⁵¹ Upon arrival, he claimed he was introduced to 'ROMBOT' – who allegedly questioned him – and 'BOUDJOS,' and 'COEUR DE LION'.¹⁵⁵² P-1654 also alleged that he saw P-1705, P-1716, and P-1704 nearby,¹⁵⁵³ with P-1705 [REDACTED].¹⁵⁵⁴ However, P-1716's testimony contradicts this account, stating that when he saw P-1654, the latter asked where P-1705 was,¹⁵⁵⁵ which is inconsistent with P-1654's claim of an exchange with [REDACTED]. P-1716 also asserted that neither P-1705 nor P-1704 was present during this exchange,¹⁵⁵⁶ directly contradicting both P-1654 and P-1705, who claimed the group was together when P-1654 arrived.¹⁵⁵⁷ Most notably, P-1716 testified that only 'Coeur de Lion' met with P-1654 and that he himself was absent from their discussion.¹⁵⁵⁸

458. Despite best efforts, P-1705's account failed to substantiate P-1654's version. Initially, P-1705 stated that a single person, [REDACTED], brought P-1654 to the base.¹⁵⁵⁹ However, on the second day of his testimony, during Defence examination, P-1705 presented a different version, drawn from [REDACTED], asserting that P-1654 arrived at the base after being informed of their presence by [REDACTED] who saw them at a checkpoint.¹⁵⁶⁰ Furthermore, contrary to P-1654's

¹⁵⁵⁰ P-1705: T-212, p. 40, lines 12-22: '*Q. Et donc, je vous suggère qu'effectivement, vous ne pouvez effectivement pas savoir ce qui est arrivé après qu'ils l'aient emmené, parce que vous-même, quand vous avez été entendu par les enquêteurs du Bureau du Procureur — et je renvoie à votre déclaration au paragraphe 37 —, vous avez évoqué ce que je vous indiquais tout à l'heure au paragraphe 36, à... à savoir que Saint-Cyr avait été emmené dans un bâtiment qui se trouvait en dehors des murs de l'école — c'est les termes que vous avez utilisés. Et vous dites, au paragraphe 37 : « J'ai vu des éléments quitter le bâtiment en riant. C'est la dernière fois que j'ai vu [REDACTED] Saint-Cyr. » Fin de citation. Est-ce que vous confirmez cette déclaration ? R. Je ne me souviens pas vraiment de cela.*'

¹⁵⁵¹ P-1654: [CAR-OTP-2053-0112-R04](#), para. 30.

¹⁵⁵² P-1654: [CAR-OTP-2053-0112-R04](#), para. 32.

¹⁵⁵³ P-1654: [CAR-OTP-2053-0112-R04](#), para. 31.

¹⁵⁵⁴ P-1654: [CAR-OTP-2053-0112-R04](#), para. 35.

¹⁵⁵⁵ P-1716: [CAR-OTP-2053-0062-R05](#), para. 50: '*I recall seeing [REDACTED] but cannot remember if it was the evening or the morning that I was released. In any event it was before [REDACTED] arrived. He asked me where [REDACTED] was but Coeur de Lion arrived and [REDACTED] stopped talking*'; T-148, p. 32, lines 13-14.

¹⁵⁵⁶ P-1716: T-148, p. 32, lines 15-19: '*Q. Au paragraphe 50, vous dites que vous avez pu échanger avec lui, et qu'il vous a demandé où se trouvait [REDACTED]— paragraphe 50 de votre déclaration. Donc, est-ce que j'ai raison de conclure que, lorsque vous l'avez vu, vous étiez seul et que ni [REDACTED] n'étaient avec vous ? R. C'est cela.*'

¹⁵⁵⁷ P-1705: T-211, p. 32, lines 3-11.

¹⁵⁵⁸ P-1716: [CAR-OTP-2053-0062-R05](#), para. 50; T-148, p. 32, lines 20-25: '*Q. Vous avez évoqué qu'il y a eu des échanges entre Coeur de Lion et [REDACTED], que Coeur de Lion est arrivé au moment où vous avez pu échanger quelques mots avec [REDACTED]. Est-ce que, par la suite, vous êtes resté et avez assisté à l'échange qui s'est déroulé entre Coeur de Lion et [REDACTED] ? R. Je ne sais pas de quoi ils se sont entretenus, parce qu'on me déplaçait d'endroit en endroit. Je ne sais pas ce qu'ils se sont dit entre eux.*', p. 33, lines 1-4: '*R. Lorsqu'il est arrivé, Coeur de Lion n'était pas là. 1 Et lorsque Coeur de Lion est revenu, on m'a déplacé. Ce qu'ils se sont dit entre eux, je ne peux pas le savoir, parce que je n'étais pas présent. Donc, je ne peux pas, ici, rapporter quelque chose que... auquel je n'ai pas assisté*'

¹⁵⁵⁹ P-1705: T-211, p. 16, lines 15-17: '*[REDACTED]*'

¹⁵⁶⁰ P-1705: T-212, p. 35, lines 4-12: '*Oui, c'est ce que j'ai lu dans le témoignage [REDACTED]. Lorsque nous avons été arrêtés, il y a une [REDACTED] qui est intervenue pour supplier à ce que nous ne soyons pas maltraités. Cette [REDACTED], qui était témoin de notre arrestation, pouvait rapporter la nouvelle [REDACTED]. (Mauvaise connexion) On était... On était là à la base, à un moment donné, et nous avons vu [REDACTED] venir*'.

claim of [REDACTED], P-1705 testified that he was positioned far from P-1654, could only observe him speaking from a distance,¹⁵⁶¹ and that no one in their group of three spoke to him.¹⁵⁶²

459. P-1704 gave yet another version of P-1654's arrival, irreconcilable with the narrative of the other witnesses, which demonstrates the fabrication of this aspect of his testimony. *First*, P-1704 claimed that he saw P-1705 taken by the 'anti-balaka' [REDACTED] and that P-1705 came back with P-1654;¹⁵⁶³ a version contradicted by both P-1705¹⁵⁶⁴ and P-1654 themselves.¹⁵⁶⁵ Second, in his statement, P-1704 situated P-1654's first visit at Yamwara '*vers 16 heures*' according to '*la position du soleil dans le ciel*' and alleged that P-1654 asked him about Saint-Cyr to which he replied '*qu'il se trouvait derrière la maison*';¹⁵⁶⁶ however P-1654 puts his visit after 19:00 and stated he was told by P-1704 that Saint-Cyr had his ears cut off.¹⁵⁶⁷ Third, P-1704 mentions that P-1654 was quickly let go before being brought back around 17:00/18:00, even though he did not see him that second time;¹⁵⁶⁸ an assertion contradicted by P-1654 who mentioned being questioned until 22:00 before coming back only the day after,¹⁵⁶⁹ at a moment where P-1704 is no longer at the Yamwara School.¹⁵⁷⁰

460. Most importantly, P-1705 is the only one among all of the witnesses to claim that Saint-Cyr Lapo was still close to them during [REDACTED] visit.¹⁵⁷¹ It is important to note that this sudden addition by P-1705 in court was inconsistent with both his prior statement and his subsequent corrections, leading to general confusion in his answers when asked to clarify his testimony.¹⁵⁷² P-1705's newly introduced, confused version of Mr. Yekatom's and P-1654's presence with Saint-Cyr Lapo conflicts with all other testimonies. Even P-1654, from whom P-1705 derived his altered account, did not claim this. According to P-1654, he saw only '[REDACTED]'—P-1705,

¹⁵⁶¹ P-1705: T-211, p. 16, lines 17-19.

¹⁵⁶² P-1705: T-212, p. 36, lines 20-26.

¹⁵⁶³ P-1704: T-128, p. 50, lines 27- 28: '[REDACTED]', p. 51, lines 7-10, p.51, lines 19-20: '[REDACTED] et, ensuite, [REDACTED] plus les Anti-balaka sont retournés au camp ensemble'.

¹⁵⁶⁴ P-1705: T-212, p. 36, lines 4-8: '*Q. J'en reviens au passage de [REDACTED] à la base. Alors, ce sera peut-être une évidence pour vous, mais c'est important pour moi de vous le faire confirmer. Nous sommes d'accord que c'est pas vous qui... qui êtes allé chercher [REDACTED]; c'est bien exact ? R. [12:01:18] Non, c'était pas moi.*'

¹⁵⁶⁵ P-1654: [CAR-OTP-2053-0112-R04](#), para. 30: 'At around 1900hrs, approximately twelve men arrived at [REDACTED]. I did not recognise any of them'.

¹⁵⁶⁶ P-1704: [CAR-OTP-2054-1136-R05](#), para. 46.

¹⁵⁶⁷ P-1654: [CAR-OTP-2053-0112-R04](#), paras. 30, 35. See also [CAR-D29-0002-0123](#) at 0124 indicating that on 24 December 2013 the sunset was a 17:41; P-1704 would thus put the visit of P-1654 when daylight was still present, while P-1654 would put it when darkness had already settled.

¹⁵⁶⁸ P-1704: T-212, p. 53, lines 6-7.

¹⁵⁶⁹ P-1654: [CAR-OTP-2053-0112-R04](#), paras. 38-40.

¹⁵⁷⁰ P-1704: [CAR-OTP-2054-1136-R05](#), paras. 48, 52 in which P-1704 states that the group, minus P-1716, was taken to the coordinator's base behind Mpoko Airport.

¹⁵⁷¹ P-1705: T-211, p. 45, lines 4-22: '[REDACTED]'

¹⁵⁷² P-1705: T-212, p. 40, lines 3-4: '*Après l'avoir battu, ils l'ont jeté sous la fenêtre. Est-ce qu'il est resté à cet endroit-là ou ils l'ont amené quelque part ? Je ne saurais... Je peux pas le savoir.*' ; p. 40, lines 12-22.

P-1716, and P-1704—at the base.¹⁵⁷³ Describing his interaction with ‘Rombot’, ‘Boudios’, and ‘Coeur de lion’, P-1654 noted he was asked about Saint-Cyr Lapo: *‘This began to worry me, as I hadn’t seen him when I arrived’*.¹⁵⁷⁴ He further stated that on his return to the base the next morning, he saw only P-1716, who informed him the others had left.¹⁵⁷⁵

461. Neither P-1654’s statement nor P-1716 and P-1704’s testimonies support P-1705’s claim that Saint-Cyr was present during P-1654 and Mr. Yekatom’s visit.¹⁵⁷⁶ P-1716 was clear that after Saint-Cyr Lapo’s mistreatment, he was taken to a house near the school, and P-1716 did not see him again.¹⁵⁷⁷ This account aligns with P-1704’s testimony that Saint-Cyr Lapo was brought to a house and never seen afterward,¹⁵⁷⁸ consistent with P-1705’s original account to investigators before he altered his testimony.¹⁵⁷⁹

462. A thorough examination of these testimonies reveals that attempts at collusion were unsuccessful, as the accounts remain irreconcilable. The Chamber cannot draw conclusions from testimonies that contradict one another and must consider the potential motives some witnesses may have for fabricating or exaggerating incriminating evidence. In this case, [REDACTED] should not impede an objective and fair assessment of the evidence regarding Mr. Yekatom’s alleged conduct.

iii) Mr. Yekatom’s assistance towards the victims

463. Mr. Yekatom’s calm interaction with the women demonstrates his genuine intentions. P-1811 recalled that he reassured them upon his evening arrival,¹⁵⁸⁰ speaking calmly and making small talk regarding common acquaintances to ease their concerns.¹⁵⁸¹ Despite some confusion in her testimony, P-0967 confirmed that no harm came to the women.¹⁵⁸² Mr. Yekatom further assured them that the Sangaris forces would retrieve them,¹⁵⁸³ with CDRs revealing that he contacted

¹⁵⁷³ P-1654: [CAR-OTP-2053-0112-R04](#), para. 31.

¹⁵⁷⁴ P-1654: [CAR-OTP-2053-0112-R04](#), para. 37.

¹⁵⁷⁵ P-1654: [CAR-OTP-2053-0112-R04](#), para. 40.

¹⁵⁷⁶ P-1705: T-211, p. 45, lines 4-22

¹⁵⁷⁷ P-1716: [CAR-OTP-2053-0062-R05](#), para. 43; T-147, p. 15, lines 10-23: *‘Q. (...)Vous avez dit que St Cyr avait été emmené à l’intérieur d’une maison, et j’aimerais savoir : est-ce que vous avez vu St Cyr après ? Est-ce que vous l’avez vu sortir de la maison ? est-ce qu’on l’a sorti de la maison, ou vous ne l’avez plus jamais revu ? R. Par la suite, je l’ai plus revu.’*

¹⁵⁷⁸ P-1704: [CAR-OTP-2054-1136-R05](#), para. 38; P-1704 however added the alleged presence of Yekatom at that moment contrary to P-1716’s account.

¹⁵⁷⁹ P-1705: T-212, p. 40, lines 12-22.

¹⁵⁸⁰ P-1811: [CAR-OTP-2058-0003-R05](#), para. 38.

¹⁵⁸¹ P-1811: T-114, p. 28, lines 10-18; P-1811: [CAR-OTP-2058-0003-R05](#), para. 38.

¹⁵⁸² P-0967: T-199, p. 50, line 27 to p. 51, line 4.

¹⁵⁸³ P-1811: T-115, p. 20, lines 13-18; see also P-0967: T-200, p. 52, line 21 to p. 53, line 20.

French forces in the evening of 24 December 2013,¹⁵⁸⁴ and in the following days.¹⁵⁸⁵ The [REDACTED] was subsequently transferred to M'Poko base, where they were cared for until the Sangaris arrived.¹⁵⁸⁶ Finally, P-1811 indicated that Mr. Yekatom arranged for the group's removal from Yamwara, ultimately leading to their release.¹⁵⁸⁷ This demonstrates that, upon his arrival, Mr. Yekatom made genuine efforts to reassure the [REDACTED] and secure their freedom.

iv) Silence around the event and resulting unreliable testimony

464. The Yamwara incident is marked by numerous, often exaggerated or fabricated accounts, as seen in the blatantly false statements from witnesses like P-0954 and P-0884. To avoid incorrect assumptions, it is essential to focus solely on indisputable evidence. Aside from P-1704's unreliable testimony,¹⁵⁸⁸ no witness [REDACTED] claims to have [REDACTED] Saint-Cyr Lapo with Mr. Yekatom.¹⁵⁸⁹

465. As attested by P-1839, the limits of the conversation with Mr. Yekatom was '[REDACTED]'.¹⁵⁹⁰ Whilst P-1839 assumed this comment was related to the incident, it was never actually discussed, such that her testimony was speculative, and frequently interspersed with '*peut-être*' and '*je ne sais pas*'. P-1839 could not conclude Mr. Yekatom's thoughts or knowledge about the incident, especially as [REDACTED] assumptions were based on a false account fed by [REDACTED].¹⁵⁹¹ [REDACTED] also noted that Ouandjio often hid his actions from Mr. Yekatom, and, unlike Mr. Yekatom, was permanently stationed at Yamwara, which further limited the flow of information regarding the [REDACTED].

466. P-0487's testimony is also revealing. Despite his efforts to provide incriminating evidence, he could not place Mr. Yekatom at Yamwara during the incident. He stated that upon learning of the '[REDACTED]' presence, he went to Mr. Ouandjio's house to request their release but found only

¹⁵⁸⁴ [CAR-OTP-2054-1480](#), row 104383, showing a call between [REDACTED] attributed to Mr. Yekatom and [REDACTED] attributed to French forces; see ICC-01/14-01/18-2562-Conf-AnxB, p. 3 as regard to the attribution of [REDACTED].

¹⁵⁸⁵ [CAR-OTP-2054-1480](#) showing calls between [REDACTED] and [REDACTED] on 25 December 2013, rows 313883, 104374, 20371, 62420, 187899, 62419, 271866, 230032; Calls on 26 December 2013, rows 187870, 104348, 271835, 313863, 104347, 271834, 230004, 104346, 62394, 229994; Calls on 27 December 2013, rows 104338, 104337, 20326, 62381, 62368, 104327.

¹⁵⁸⁶ P-1811: [CAR-OTP-2058-0003-R05](#), paras. 41-42; para. 44: '*Puis, au moment de dormir, ils nous ont apporté une grande natte. Ils ont mis la natte par terre et le porte-parole a envoyé un Anti-Balaka nous chercher du café et de quoi manger*'; paras. 48-52 (telephone contacts and arrival of Sangaris); see also on arrangements for sleep and food: P-0967: T-199, p. 58, lines 20-27; P-1704: [CAR-OTP-2054-1136-R05](#), para. 53.

¹⁵⁸⁷ P-1811: T-114, p. 28, lines 4-6.

¹⁵⁸⁸ P-1704: [CAR-OTP-2054-1136-R05](#), para. 55.

¹⁵⁸⁹ No witness testified about mentioning Saint-Cyr Lapo to Mr. Yekatom, and for the M'poko base, P-1704 is contradicted by P-1705: T-211, p. 49, lines 6-18 and specially line 13 ('*après cette présentation, personne ne lui a répondu*') and line 18 ('*Je le répète : je n'ai pas eu la possibilité de m'entretenir avec lui*').

¹⁵⁹⁰ P-1839: T-171, p. 16, lines 1-7: '[REDACTED]'.

¹⁵⁹¹ P-1839: T-171, p. 16, lines 19-21 ('(...) [REDACTED]'). On [REDACTED] story about the alleged exchange of the women against Djotodia's departure see T-173, p. 79, line 16 to p. 80, line 4.

Ouandjio there.¹⁵⁹² P-0487 claimed he pleaded for the group's release,¹⁵⁹³ and did not see Mr. Yekatom that day,¹⁵⁹⁴ placing his visit at the end of the day.¹⁵⁹⁵ This further confirms that Mr. Yekatom's arrival happened later in the day.¹⁵⁹⁶ Importantly, P-0487 testified that he never discussed the incident with Mr. Yekatom,¹⁵⁹⁷ and only learned of a death through the OTP investigation.¹⁵⁹⁸

467. Few details emerged regarding the exact circumstances of the Yamwara incident, and there was silence on Saint-Cyr Lapo's mistreatment and subsequent disappearance. For instance, P-0992 was unaware of the incident altogether.¹⁵⁹⁹ P-0876 testified that he learned what little he knew about it from the radio,¹⁶⁰⁰ and although he confirmed with Mr. Yekatom that [REDACTED] had been at the base, he did not engage further on the matter.¹⁶⁰¹ TCV-0952, despite being involved in the negotiation with Sylvestre Yagouzou when the group was at M'Poko base, was never informed about the disappearance of any group member, as shown in her radio communiqué, which mentions the release of the detainees to Sangaris and affirms that no one was injured.¹⁶⁰²

468. Witnesses who claimed to know about the incident or possess confidential details often contradicted themselves. P-0954 is a prime example, as the alleged confidences he received did not align with the accounts of those directly involved. A careful review of P-0954's testimony reveals that he had no direct knowledge of the Lapo incident and likely fabricated his source of information to make his testimony appear more credible.

(a) P-0954's false narrative

469. P-0954's testimony is incorrect on: the identities of the person killed,¹⁶⁰³ the persons held at Yamwara,¹⁶⁰⁴ the unfolding of the initial arrest,¹⁶⁰⁵ and the conditions and location of the transfer

¹⁵⁹² P-0487: T-201, p. 66, line 27 to p. 67, line 6.

¹⁵⁹³ P-0487: T-201, p. 68, lines 12-20, p. 71, lines 22-27; T-206, p. 75, lines 9-13.

¹⁵⁹⁴ P-0487: T-201, p. 73, lines 3-10.

¹⁵⁹⁵ P-0487: T-021, p. 73, line 10: '(...) *Et cette période, il faisait presque nuit*'

¹⁵⁹⁶ P-1811: T-114, p. 20, lines 4-6 ;

¹⁵⁹⁷ P-0487: T-201, p. 72, lines 6-8: '*Avez-vous parlé avec M. Yekatom à ce sujet, concernant cet événement ? R. Non*'.

¹⁵⁹⁸ P-0487: T-201, p. 68, lines 24-26: '*R. (...) Quand j'étais à Yamwara, j'étais pas au courant, je ne le savais pas. Et c'est le jour que l'enquêteur a parlé de ça que je suis au courant qu'il y a un fils de Mamour qui est mort.*'

¹⁵⁹⁹ P-0992: T-092, p. 51, lines 13-21.

¹⁶⁰⁰ P-0876: T-085, p. 47, lines 27-28.

¹⁶⁰¹ P-0876: T-085, p. 48, lines 21-27.

¹⁶⁰² [CAR-OTP-2042-1457](#) [00:02:15] to [00:05:34] / [CAR-D29-0006-0092](#), p.0093, line 9 to p.0094, line 21.

¹⁶⁰³ P-0954 alleged that General Lapo's son, aide de camp of [REDACTED], that was killed (P-0954: [CAR-OTP-2048-0171-R03](#), para. 86; T-166, p. 41, line 4-5), while in reality it was his nephew.

¹⁶⁰⁴ P-0954 only mentioned that [REDACTED] would have been held at Yamwara (P-0954: [CAR-OTP-2048-0171-R03](#), para. 86; T-166, p. 41, line 4-5), while in reality, even by omitting the men, in total three women were held, none of which was [REDACTED].

¹⁶⁰⁵ P-0954 alleged that [REDACTED] and her aide de camp were attacked while travelling in a vehicle (P-0954: [CAR-OTP-2048-0171-R03](#), para. 86; T-166, p. 41, lines 7-9), which is wrong both as to the composition of the group that was attacked and the manner in which they were travelling (on foot versus in a car).

of one woman prior to release.¹⁶⁰⁶ In addition, the witness provided two different versions of the alleged murder of one member of the group at the checkpoint, none of which is consistent with the rest of the evidence.¹⁶⁰⁷

470. P-0954's contradictions are evident in his testimony. In his statement, he claimed the individual was killed on the spot,¹⁶⁰⁸ whilst in court, he suggested the individual was still alive when he allegedly spoke with Mr. Yekatom on the phone.¹⁶⁰⁹ Moments later, he changed his account again, stating the individual was already dead at the time of the call.¹⁶¹⁰ These fluctuations in his story about the phone call with Mr. Yekatom indicate a fabricated testimony. Furthermore, when discussing Mr. Yekatom's supposed admission of the killing, P-0954 inaccurately stated the date as before 20 December, despite the incident having occurred on 24 December.¹⁶¹¹ The discrepancies between his court testimony and his initial statement further highlight the fabrication of his narrative.¹⁶¹²

471. During the Defence examination, P-0954 claimed with certainty that the individual was killed on the spot, stating it was both what he saw and what he had learned.¹⁶¹³ However, nothing in his testimony supports the claim that he was an eyewitness. Instead, he based his account on alleged confidences from informants but the details he provided about these sources further expose his lies.

(b) P-0954's alleged informants did not know about the Lapo incident

472. P-0954 claimed to have been informed of the incident by members he alleges were with the

¹⁶⁰⁶ P-0954 alleged that [REDACTED] was transferred on the 'Gbazabangui mountain' (T-166, p. 46, lines 4-10; T-168, p. 60, lines 13-14) and freed by Ngremangou (T-166, p. 46, lines 11-13), while evidence shows that the five individuals were transferred to Sylvestre Yagouzou's base in Boeing instead.

¹⁶⁰⁷ P-0954 alleged that the 'aide de camp' was slaughtered on the spot when they were arrested, his throat cut, in the presence and on the order of Mr. Yekatom (P-0954: [CAR-OTP-2048-0171-R03](#), para. 86); in his in-court testimony P-0954 will then say that he was shot (T-166, p. 41, lines 10-11 '*cet élément a été froidement abattu*') and reiterated he was killed immediately (T-168, p. 60, line 13). Another narrative will be that the individual was killed on the spot before the woman being transferred to the base (T-168, p. 61, lines 1-8). In contrast the evidence as regard to the incident is probative of the fact that Saint Cyr Lapo was not killed on the spot but later after being transported to Yamwara and that Mr. Yekatom was not present at the time.

¹⁶⁰⁸ P-0954: [CAR-OTP-2048-0171-R03](#), para. 86.

¹⁶⁰⁹ P-0954: T-166, p. 43, lines 20-22: '*Et je l'ai dit : « C'est un militaire, néanmoins, quand même, vous devez le garder. » Il m'a répondu : « C'est un traître, il est en connivence avec la Séléka, donc on ne peut pas le garder. » Bon, c'est ça.*'; extract implies that the individual is still alive as P-0954 says that they must keep him, which would not make sense if he was already dead.

¹⁶¹⁰ P-0954: T-166, p. 43, lines 26-28 with the mention that '*ça veut dire qu'ils l'ont tué, quoi*' with now a conjugation in the past, implying that the individual was already dead at the moment of the call; see also T-166, p. 45, lines 18-22.

¹⁶¹¹ P-0954: T-168, p. 64, lines 10-20; The Defence highlights that concrete dates were put to the witness.

¹⁶¹² P-0954: T-168, p. 62, line 28, '*je ne vous ai pas parlé de « ligoter »*' contra [CAR-OTP-2048-0171-R03](#), para. 86: 'tied his hands and legs'.

¹⁶¹³ P-0954: T-168, p. 60, lines 21-23: '*mais ils l'ont tué, c'est ce que j'ai vu, ils ont vraiment tué sur place. C'est ce que j'ai appris*' (emphasis added).

RFACPP: [REDACTED],¹⁶¹⁴ [REDACTED],¹⁶¹⁵ [REDACTED].¹⁶¹⁶ In court, he added [REDACTED],¹⁶¹⁷ [REDACTED],¹⁶¹⁸ and P-1786.¹⁶¹⁹ First, P-1786 stated that he did not see anyone killed at Yamwara¹⁶²⁰ which contradicts P-0954's assertions.¹⁶²¹ Second, evidence suggests that [REDACTED] was not part of RFACPP.¹⁶²² Indeed, Likoundou was identified by [REDACTED], P-1858, as someone who was part of [REDACTED] group.¹⁶²³ The same can be said for [REDACTED], who was also part of [REDACTED] group at the time of this event.¹⁶²⁴ During his testimony P-0954 even identified both of those individuals as being part of his own [REDACTED].¹⁶²⁵ Consequently, neither of the two could have informed him as a member of RFACPP. In addition, P-0954 and P-1858 claimed that [REDACTED],¹⁶²⁶ while P-1705, [REDACTED], indicated not knowing him.¹⁶²⁷

473. P-0954's testimony is entirely unsupported by evidence, whether regarding the identity of the individual killed or the circumstances of the death. He was neither an eyewitness nor an auditory witness, nor were the three informants he cited. Despite attempting to enhance his credibility with names and fabricated details, his account is contradicted by the evidence presented to the Chamber. His testimony on this event should be dismissed in its entirety.

(c) *P-0884's inconsistent testimony*

474. On a lesser level, P-0884 also wanted to credit himself with a heroic role in the resolution of the incident. However, the details he gave about him approaching Sangaris,¹⁶²⁸ or the assistance he provided to [REDACTED] and '*des enfants musulmans*' '*d'environ 10 ans et plus*'¹⁶²⁹ had

¹⁶¹⁴ P-0954: T-166, p. 41, line 19 to p. 42, line 6; [CAR-OTP-2048-0171-R03](#), para. 86; P-0954 identified [REDACTED] on picture [CAR-D29-0010-0058](#); T-168, p. 65, line 22 to p. 66, line 11.

¹⁶¹⁵ P-0954: T-166, p. 41, line 19 to p. 42, line 6; [CAR-OTP-2048-0171-R03](#), para. 86.

¹⁶¹⁶ P-0954: [CAR-OTP-2048-0171-R03](#), para. 86; T-168, p. 59, line 27.

¹⁶¹⁷ P-0954: T-168, p. 59, line 28.

¹⁶¹⁸ P-0954: T-168, p. 62, lines 3-13.

¹⁶¹⁹ P-0954: T-168, p. 60, lines 1-2, p. 62, lines 3-13.

¹⁶²⁰ P-1786: [CAR-OTP-2058-0200-R03](#), para. 31; T-198, p. 27, lines 10-14.

¹⁶²¹ P-0954: T-168, p. 62, lines 3-13.

¹⁶²² P-1786: T-198, p. 31, lines 12-15 indicating that he does not know him.

¹⁶²³ P-1858: [CAR-OTP-2063-0050-R04](#), para. 31; T-186, p. 36, lines 11-18.

¹⁶²⁴ P-1858: [CAR-OTP-2063-0050-R04](#), para. 31; T-186, p. 36, lines 11-18.

¹⁶²⁵ See [CAR-REG-0001-0011](#) [REDACTED]. For context P-0954 was presented the original version of the list ([CAR-OTP-2039-0063](#)) and agreed that the list was not limited to RFACPP members but included all soldiers located in the southern zone (P-0954: T-168, p. 9, line 18 to p. 10, line 9). P-0954 was subsequently handed a paper version of the list on which he was instructed to mark the individuals belonging to [REDACTED] (P-0954: T-168, p. 12, lines 4-23). Following a break the annotated list was handed back by P-0954 who confirmed having put a cross next to the names [REDACTED] (P-0954: T-168, p. 35, lines 6-21).

¹⁶²⁶ P-0954: T-168, p. 61, lines 22-25, p. 62, lines 17-18; P-1858: [CAR-OTP-2063-0050-R04](#), para. 92.

¹⁶²⁷ P-1705: T-212, p. 10, lines 9-13.

¹⁶²⁸ P-0884: T-056, p. 14, lines 3-9.

¹⁶²⁹ P-0884: T-056, p. 13, lines 14-16, p. 14, lines 10-11: '*J'ai monté la garde pendant deux jours. Il m'a fallu, à moi, aller puiser de l'eau pour donner à la femme pour qu'elle puisse faire sa toilette*'; T-057, p. 93, lines 14-27.

nothing to do with the real composition of the group,¹⁶³⁰ nor how the events unfolded. The circumstances under which the group would have been stopped according to P-0884 are also inconsistent with his statement,¹⁶³¹ as with the rest of the evidence. P-0884 also claimed that TCV-0952 ‘*est venue à (...) la base pour retirer les sept personnes (...) pour les libérer*’,¹⁶³² which TCV-0952 denied.¹⁶³³ His testimony on that event is therefore not credible. Notably, like the other witnesses, P-0884 admitted he never discussed the incident with Mr. Yekatom.¹⁶³⁴

(d) *Conclusion*

475. The OTP’s case theory, as presented in its pre-trial brief,¹⁶³⁵ did not materialise. The evidence does not support the claim that the arrest of the group by Alkanto was based on their Muslim identity and nor that they would have comported to the RFACPP’s objectives as understood and promulgated by Mr. Yekatom. The arrest was instead due to the group’s connections with Seleka [REDACTED] and Alkanto’s personal grievance and the mistreatment resulted from [REDACTED].

476. Nor is the evidence coherent or reliable so as to support allegations concerning Mr. Yekatom’s acts and conduct. The inconsistencies in the different accounts and the circumstances surrounding the testimonies of [REDACTED] irremediably taint their evidence and accordingly, must be treated with caution.

v) Exhumations at base

(a) *Exhumation of bodies at Yamwara*

477. Rumours and storytelling are common in times of conflict, particularly within tense, close-knit communities. To distinguish fact from fiction, it is essential to scrutinise evidence beyond vague testimonies, cross-referencing them with other accounts and material evidence. The claims regarding a cemetery at Yamwara School must undergo this same scrutiny.¹⁶³⁶

478. P-1990, the [REDACTED], was present during the exhumation of bodies by an NGO named IRAD in 2015.¹⁶³⁷ The evidence in this case includes a database with GPS locations of all IRAD-

¹⁶³⁰ Indeed, it has been established that P-1705, [REDACTED] during the events was the youngest person of the group. P-1811: T-115, p. 7, lines 4-6, p. 16, lines 1-4; P-0967: T-200, p. 20, lines 14-22.

¹⁶³¹ P-0884: T-056, p. 20, line 18 to p. 21, line 14.

¹⁶³² P-0884: T-056, p. 14, lines 13-15.

¹⁶³³ TCV-0952: T-252, p. 67, line 11 to p. 69, line 5 (only had telephone contacts and did not go to Boeing).

¹⁶³⁴ P-0884: T-056, p. 16, line 3: ‘*Non, je ne me suis pas entretenu avec lui là-dessus*’.

¹⁶³⁵ ICC-01/14-01/18-723-Conf, paras. 446-449.

¹⁶³⁶ P-0487: T-201, p. 47, lines 1-13; T-207, p. 55 line 28 to p. 56 line 18. In which P-0487 alleges the existence of a ‘cemetery’ with multiple tombs at 250-300 meters of the Yamwara School. As further detailed below, the Defence’s analysis of the exhumation of bodies shows that only 5 bodies were exhumated in a 500 meters radius around the Yamwara School, none of them concentrated in a ‘cemetery’ as alleged by P-0487 (see [CAR-D29-0003-0144](#) at 0151-0158).

¹⁶³⁷ P-1990: [CAR-OTP-2122-5638-R02](#), paras. 39, 41.

led exhumations in Bangui.¹⁶³⁸ An analysis of this database, with satellite imagery marked by the Defence confirms that three bodies were exhumated at Yamwara.¹⁶³⁹ P-1990 confirmed this number, which aligns with his initial statements to investigators when they [REDACTED] and took a [REDACTED] of the three exhumation sites.¹⁶⁴⁰ An analysis of videos filmed in December 2013 at Yamwara is highly probative of the general identity of one of the bodies.¹⁶⁴¹ P-1990 confirmed that the location of a grave being dug in a video,¹⁶⁴² corresponds to the location of one of the exhumation he witnessed.¹⁶⁴³ One hour before the video of the grave was being dug,¹⁶⁴⁴ another video¹⁶⁴⁵ displayed the body of an individual on the school premises. In the video, individuals around the body can be heard contemporaneously discussing the deceased, explaining that he was selling medication and had been killed by bandits,¹⁶⁴⁶ and that everyone should work to dig a grave for him.¹⁶⁴⁷ Those indicia are sufficiently probative for the Chamber to find that this individual is one of the bodies exhumated by IRAD in 2015.

479. On this subject it is recalled that P-2475 claimed that a significant number of individuals would have been buried by the group near a ‘foundation stone’ or tree shown in a photograph presented by the OTP.¹⁶⁴⁸ While P-1990 mentioned that he ‘believes’ that bodies were buried there, he admitted having no direct knowledge of the details.¹⁶⁴⁹ However, these claims appear unfounded. The Defence conducted an analysis,¹⁶⁵⁰ to locate the stone and tree in question, which were found in the vicinity of Yamwara and cross-checked this area with the exhumation database.¹⁶⁵¹ The analysis of the database of exhumations indicates that no bodies were retrieved in those areas,¹⁶⁵² contradicting P-2475’s assertions. Upon reviewing this analysis, P-1990 agreed and confirmed that his earlier statement about bodies being there was based solely on rumours he had heard.¹⁶⁵³ Notably, none of the three bodies exhumated were ever formally identified and there is no evidence of any of them being Muslims killed by the RFACPP movement. The only evidence on

¹⁶³⁸ [CAR-OTP-2126-0292-R01](#).

¹⁶³⁹ [CAR-D29-0003-0144](#), p. 0154-0158.

¹⁶⁴⁰ P-1990: T-237, p. 52, lines 10-25, p. 61, lines 5-16. See also [CAR-OTP-00001499-R01](#), para. 2.

¹⁶⁴¹ Analysis included in [CAR-D29-0003-0144](#), p.0160-0161.

¹⁶⁴² [CAR-OTP-2065-4701](#).

¹⁶⁴³ P-1990: T-237, p. 55, line 5 to p. 56, line 24. See also [CAR-D29-0003-0144](#), p. 0160-0161.

¹⁶⁴⁴ See metadata [CAR-OTP-2065-7624](#) of video [CAR-OTP-2065-4701](#), indicating that it was filmed 1 hour and 3 minutes before video [CAR-OTP-2065-4665](#) and its accompanying metadata [CAR-OTP-2065-7606](#).

¹⁶⁴⁵ [CAR-OTP-2065-4665](#) / [CAR-D29-0006-1347](#).

¹⁶⁴⁶ [CAR-D29-0006-1347](#), p. 1347, lines 13-19. See also P-1990’s confirming the interpretation: T-237, p. 57-59, lines 9-18.

¹⁶⁴⁷ [CAR-D29-0006-1347](#), p. 1347, lines 23-24.

¹⁶⁴⁸ P-2475: T-129, p. 65, lines 12-27 referring to photograph [CAR-OTP-2122-9818](#).

¹⁶⁴⁹ P-1990: [CAR-OTP-2122-5638-R02](#), para. 48, referring to photograph [CAR-OTP-2119-0193](#) which is identical to [CAR-OTP-2122-9818](#).

¹⁶⁵⁰ [CAR-D29-0003-0171](#).

¹⁶⁵¹ [CAR-D29-0003-0171](#), p. 0173-0177.

¹⁶⁵² [CAR-D29-0003-0144](#), p. 0154-0156.

¹⁶⁵³ P-1990: T-237, p. 61, line 19 to p. 65, line 4.

the case record was provided by the thorough Defence analysis based on the Prosecution disclosed items, which strongly indicates that one of the three bodies is actually one of an individual killed by bandits. Adverse inferences should be drawn on the fact that the Prosecution did not itself attempt to engage in a similar analysis to verify the allegations of P-2475. In this context the Defence's diligence casts sufficient doubt for the Chamber to dismiss P-2475's account on this topic.

3. PK9-MBAÏKI AXIS

a) RFACPP advanced along the PK9-Mbaïki axis with the aim of ensuring security and restoring order in the area

480. Lobaye prefecture was not spared from the Seleka's campaign of systematic dismantling of administrative infrastructure and targeting of security forces and law enforcement.¹⁶⁵⁴ They took over pre-existing roadblocks in and around villages and towns on the axis, such as Pissa and Mbaïki, and other positions previously manned by the gendarmerie and police.¹⁶⁵⁵ The Seleka thus created a total security void, within which they operated with total impunity; they committed myriad abuses along the axis, arbitrarily detaining, torturing, and killing civilians; and pillaging public and private property.¹⁶⁵⁶

481. Following the resignation of Djotodia, and amid a mounting wave of anti-Muslim mob violence in towns and villages across Lobaye, the Seleka withdrew from towns and villages along the axis, regrouping in Mbaïki. It was within this extremely volatile climate of insecurity and notable absence of local authorities¹⁶⁵⁷ that the RFACPP first emerged on the axis. As the OTP itself concedes, the RFACPP's advance met no resistance from the Seleka, which was itself progressively retreating.¹⁶⁵⁸ The RFACPP's progression was conducted pursuant to its overarching aim of securing positions previously occupied by the Seleka to ensure that the latter

¹⁶⁵⁴ P-1647: T-195, p. 52, lines 25-28; P-2084: [CAR-OTP-2094-0968-R02](#), paras. 29, 32, 35, 40, 45; T-234, p. 61, lines 12-14, p. 63, lines 4-9; P-2041: [CAR-OTP-2104-0003-R02](#), paras. 18-19; P-1823: [CAR-OTP-2063-0369-R02](#), para. 19; D29-5015: T-254, p. 32, lines 27-28, p. 33, lines 1-2; P-1813: T-180, p. 63, lines 14-27; P-2354: [CAR-OTP-2122-4507-R02](#), para. 25; P-1595: T-106, p. 24, lines 4-8, 13-16; D29-5012: T-293, p. 25, lines 17-20; p. 34, lines 7-13, p. 44, lines 4-16; P-2353: T-161, p. 68, lines 3-11; P-1595: T-106, p. 24, lines 10-16; T-107, p. 13, lines 16-26; P-2353: [CAR-OTP-2100-0226-R03](#), para. 21; P-1666: T-230, p. 30, lines 20-27; D29-6037: [CAR-D29-0009-0459-R01](#), para. 18; D29-6048: [CAR-D29-0009-0804-R01](#), para. 39, timing 20:23:21. See also [CAR-D30-0009-0001](#) / [CAR-D30-0002-0011](#). See also [CAR-D29-0002-0680](#); [CAR-OTP-2001-1756](#); [CAR-OTP-2054-1371](#); [CAR-D29-0012-0001](#); see submissions made on these items in ICC-01/14-01/18-2516-Conf-AnxA, items #13, 15, 18, 27.

¹⁶⁵⁵ P-2084: T-233, p. 28, lines 24-28; P-2389: [CAR-OTP-2122-4458-R03](#), para. 24; P-1595: T-106, p. 24, lines 17-24; P-2354: [CAR-OTP-2122-4507-R02](#), para. 25; D29-5012: T-294, p. 72, lines 14-21; [CAR-OTP-2054-1371](#).

¹⁶⁵⁶ P-2084: [CAR-OTP-2094-0968-R02](#), paras. 36, 38, 39, 40, 56; P-2389: [CAR-OTP-2122-4458-R03](#), para. 19; P-1666: T-230, p. 36, lines 24-28; P-1595: T-106, p. 29, lines 9-15; P-2354: [CAR-OTP-2122-4507-R02](#), para. 24; T-210, p. 106, lines 10-16. See also [CAR-OTP-2054-1371](#); see submissions made on this item in ICC-01/14-01/18-2516-Conf-AnxA, item #18.

¹⁶⁵⁷ P-2084: [CAR-OTP-2094-0968-R02](#), para. 84; P-1838: T-215, p. 9, lines 26-27.

¹⁶⁵⁸ Trial Brief, para. 465.

would not return¹⁶⁵⁹ while actively avoiding direct confrontation where possible, both out of necessity (the RFACPP still being vastly out-resourced by the Seleka) and an intention to minimise civilian suffering and casualties.¹⁶⁶⁰ In Sekia, the RFACPP employed a covert intelligence-gathering operation to ensure that the checkpoint there had duly been abandoned by the Seleka before the group emerged from the bush to appear on the axis.¹⁶⁶¹ The only instance of a clash that the RFACPP saw on the axis was at PK9, following the resignation of Djotodia, where elements engaged the Seleka in minor skirmishes.¹⁶⁶² Within days however, Mr. Yekatom and the RFACPP had negotiated peace with the Seleka positioned at PK9, led by Cptn. Daouda himself an ex-FACA colleague of Mr. Yekatom.¹⁶⁶³ Mr. Yekatom's subsequent negotiations with Seleka Colonel Anour also led to the peaceful withdrawal of the latter's forces from Mbaïki by the end of January 2014.¹⁶⁶⁴

482. Notwithstanding their progressive retreat, the Seleka continued to pose a grave threat, to both the RFACPP and to civilians in Lobaye. Following the resignation of Djotodia, Seleka combatants fled Bangui en masse;¹⁶⁶⁵ and departing Seleka forces continued to commit to atrocities against the civilian population as they withdrew.¹⁶⁶⁶ In Mbata, a local Muslim threw a grenade into a crowd of civilians who were celebrating the resignation of Djotodia; and in the ensuing violence, Seleka forces from Mbaïki called in to reinforce by the local Muslims burned 70 homes and killed six civilians.¹⁶⁶⁷ In Boda, tit-for-tat intercommunity violence escalated massively when local Muslims, armed with combat weaponry provided by the departing Seleka, burned homes in non-Muslim neighbourhoods.¹⁶⁶⁸ The RFACPP was duly aware and wary of this ongoing and direct

¹⁶⁵⁹ P-2084: [CAR-OTP-2094-0968-R02](#), para. 84; T-234, p. 72, lines 11-15, p. 75, line 24 to p. 76, line 5.

¹⁶⁶⁰ P-1647: T-195, p. 44, lines 2-7; P-2353: [CAR-OTP-2100-0226-R03](#), para. 49; P-1786: [CAR-OTP-2058-0200-R03](#), paras. 36, 42-43; P-1558: [CAR-OTP-2105-0195-R01](#), para. 26; P-2084: [CAR-OTP-2094-0968-R02](#), para. 81; T-234, p. 75, line 24 to p. 76, line 5; P-1839: T-174, p. 29, lines 5-9, p. 30, line 26 to p. 31, line 1, p. 32, line 11 to p. 33, line 13.

¹⁶⁶¹ P-1839: T-174, p. 29, lines 1-4, p. 32, lines 3-6; P-1647: [CAR-OTP-2050-0654-R02](#), para. 37; P-2041: [CAR-OTP-2104-0003-R02](#), para. 24.

¹⁶⁶² P-1647: [CAR-OTP-2050-0654-R02](#), para. 39; T-194, p. 44, lines 19-27, p. 53, lines 12-17. See also [CAR-OTP-2118-0723](#) / [CAR-D29-0006-0721](#). *Contra* P-2926: [CAR-OTP-2127-4289](#), para. 74.

¹⁶⁶³ P-0884: T-057, p. 75, lines 15-17; P-1647: T-195, p. 45 line 23 to p. 47 line 3; [CAR-OTP-2055-2610](#), [00:02:52] to [00:03:17], [00:06:42] to [00:07:45] / [CAR-OTP-2122-2271](#), p. 2276, lines 93-101, pp. 2278-2279, lines 178-188; [CAR-OTP-2123-0430](#), p. 0433. See also [CAR-OTP-2094-7703-R01](#) (attributing phone number to Souleymane Dauouda); [CST] [CAR-D29-0004-2593](#) (CST showing phone calls between phone numbers attribute to Mokomkama and Daouda).

¹⁶⁶⁴ The Defence notes that D29-5012 recognised Colonel Anour appearing with his elements in Mbaïki as late as 27 January 2014, see [CAR-OTP-00002244](#), [00:00:00] to [00:01:22] (D29-5012: T-293, p. 41, lines 22-24).

¹⁶⁶⁵ [CAR-OTP-2107-6906](#), p. 6910, lines 111-112; TCV-0952: T-251, p. 8, line 14 to p. 9, line 7.

¹⁶⁶⁶ TCV-0952: T-250, p. 9, lines 20-27; [CAR-OTP-2100-1680](#), p. 1681.

¹⁶⁶⁷ P-1813: [CAR-OTP-2069-0035-R02](#), paras. 31-33, 41; T-180, p. 39, line 20 to p. 40, line 3, lines 5-8; T-182, p. 17, lines 4-13, 18-19, p. 20, lines 18-20; P-1666: T-232, p. 7, line 6 to p. 8, line 3, p. 9, lines 2-19; D29-5012: T-295, p. 8, line 24 to p. 9, line 14, p. 10, lines 3-10, lines 17-27.

¹⁶⁶⁸ D29-5012: T-293, p. 62, line 28 to p. 63, line 15; D29-5015: T-254, p. 36, line 22 to p. 37, line 6, p. 38, lines 20-23, p. 39, lines 2-14; P-1813: T-180, p. 39, lines 8-19; P-0801: [CAR-OTP-2001-2237](#), p. 2245; [CAR-OTP-2090-0373](#), p. 0378; [CAR-OTP-2042-3464](#) / [CAR-D29-0006-0053](#); [CAR-D29-0005-0392](#), p. 0393; [CAR-OTP-2023-2049](#) / [CAR-OTP-2127-6298](#), p. 6315, lines 681-685.

threat: in Pissa, RFACPP members were informed by ex-Seleka Berengo FETA recruits that the Seleka intended to attack them, despite their having retreated from the town.¹⁶⁶⁹

483. In this context, to prevent the return of the Seleka, and in the total absence of functional public authority in Lobaye, the RFACPP assumed responsibility of pre-existing checkpoints in Pissa and Sekia.¹⁶⁷⁰ Another ‘permanent’ RFACPP roadblock was located at PK9, in front of the Pissmiss compound, on the west side of the bridge.¹⁶⁷¹ The objective of the RFACPP’s presence was to free the Bimbo road so that the population could circulate freely.¹⁶⁷² As part of the RFACPP’s efforts to restore state security and law enforcement agencies following their decimation at the hands of the Seleka, gendarmes and Water and Forestry Ministry personnel were encouraged to return to service along the axis, and specifically to man these checkpoints, alongside uniformed RFACPP members, in an attempt to establish and maintain security and order.¹⁶⁷³ P-1839 specifically confirmed that the dual checkpoints at Sekia¹⁶⁷⁴ (where the RFACPP first emerged on the axis) were established for security reasons to protect the members billeted there, citing the risk of ‘enemies’ gathering information or otherwise attempting to harm.¹⁶⁷⁵ Temporary roadblocks were erected when ‘security incidents’ occurred.¹⁶⁷⁶ Tolls were levied in ‘small amounts to pay for their coffee’; and [REDACTED] at the RFACPP checkpoints along the axis.¹⁶⁷⁷ However, payment was not strictly mandatory.¹⁶⁷⁸ Muslims were able to travel through RFACPP checkpoints: in early February 2014, [REDACTED] travelled in a large truck carrying ‘many’ Muslims, mostly women, children, and elderly persons, from the direction of Boda, through Mbaïki, and along the axis through to Bangui via the PK9 checkpoints ‘without any incidents’.¹⁶⁷⁹ The RFACPP’s responsibility for these checkpoints was not permanent, nor was it intended to be so: as the threat posed by the Seleka abated and as stability returned, responsibility

¹⁶⁶⁹ P-1558: [CAR-OTP-2105-0195-R01](#), para. 101. See also [CAR-D29-0002-0676](#); and submissions made on this item in ICC-01/14-01/18-2516-Conf-AnxA, item #12.

¹⁶⁷⁰ P-2084: [CAR-OTP-2094-0968-R02](#), paras. 78, 81; P-1813: [CAR-OTP-2069-0035-R02](#), para. 74; P-1839: T-174, p. 33, line 23 to p. 34, line 16; [CAR-OTP-2066-1460](#); see also, [CAR-D29-0001-0526](#), p. 0530.

¹⁶⁷¹ P-1647: [CAR-OTP-2050-0654-R02](#), para. 37; T-195, p. 48, lines 17-21; D29-6035: CAR D29-0009-0444-R01, para. 35; P-1839: [CAR-OTP-2066-1461](#); P-0888: T-121, p. 23, lines 13-27; see also below.

¹⁶⁷² P-1839: T-174, p. 26, line 26 to p. 27, line 6.

¹⁶⁷³ P-1647: [CAR-OTP-2050-0654-R02](#), para. 44; P-1839: T-170, p. 44, line 15; T-174, p. 35, lines 25-25, p. 36, lines 1-3, p. 53, lines 12-28, p. 54, lines 1-7; P-0888: T-122, p. 17, lines 8-25; P-1647: T-195, p. 53, lines 1-4, p. 56, lines 9-17; [CAR-OTP-2001-0835](#), p. 0884 (where reference is made to uniformed RFACPP members, identifying themselves as FACA, operating in Sekia and Pissa; regarding the suggestion that there were seven checkpoints along the axis where RFACPP were ‘observed’, the Defence notes that the basis for this finding is unclear, and the fact that only the presence of uniformed RFACPP members only appear to have been observed at Sekia and Pissa suggests that the finding is unsafe.)

¹⁶⁷⁴ P-1839: [CAR-OTP-2066-1460](#).

¹⁶⁷⁵ P-1839: T-170, p. 44, lines 3-21; T-174, p. 32, line 7 to p. 33, line 13.

¹⁶⁷⁶ P-1647: [CAR-OTP-2050-0654-R02](#), para. 44.

¹⁶⁷⁷ P-2084: [CAR-OTP-2094-0968-R02](#), para. 78; [REDACTED].

¹⁶⁷⁸ P-1558: [CAR-OTP-2105-0195-R01](#), para. 50.

¹⁶⁷⁹ P-1871: [CAR-OTP-2064-0884-R02](#), paras. 19, 41-43.

for these checkpoints was handed over to the state.¹⁶⁸⁰

484. The RFACPP's efforts to restore a degree of order and security along the axis continued in the form of its frequent collaboration with international forces and with local authorities.¹⁶⁸¹ For instance, MISCA sought the assistance and intervention of the RFACPP in areas unfamiliar to the former, or localities where individuals falsely claiming to be under the orders of Mr. Yekatom were causing disorder.¹⁶⁸² In April 2014, RFACPP members conducted a mission to disarm a number of 'fake anti-balaka' accused of having pillaged property and mistreated village inhabitants of Lobaye, with the broader aim of assisting MISCA reinstate the free circulation of people and goods.¹⁶⁸³ The RFACPP collaborated with gendarmes and villages chiefs along the axis, *inter alia* by handing over apprehended suspected criminals.¹⁶⁸⁴

485. The RFACPP also assisted vulnerable Muslims in areas along the axis. P-1647 was asked by Mr. Yekatom to travel to Kapou and ensure the safety of Peuhl cattle traders who were fleeing violence in Boali – a particularly risky mission due to the animosity held by the inhabitants of Kapou towards the Peuhl.¹⁶⁸⁵ The Chamber also heard evidence from D29-5014 as to operations conducted by Mr. Yekatom to extract Muslims from volatile areas such as Boda and escort them to safety.¹⁶⁸⁶ P-1595 testified that Lobaye was the first prefecture where peace returned after the events, and that vehicles could travel the length of the axis between Mbaïki and Bangui; and that all this was 'thanks to Mr. Yekatom'.¹⁶⁸⁷

- i) Evidence of incidents occurring at unspecified and/or non-RFACPP checkpoints do not support the OTP case

486. Checkpoints were a traditional means by which village self-defence groups could ensure a degree of security in rural CAR; they were thus a longstanding feature of the axis and the Lobaye more broadly, long preceding the arrival of both the RFACPP and the Seleka.¹⁶⁸⁸ This tradition

¹⁶⁸⁰ P-2084: [CAR-OTP-2094-0968-R02](#), para. 79; P-1813: [CAR-OTP-2069-0035-R02](#), para. 75.

¹⁶⁸¹ D29-5015: T-254, p. 55, line 18 to p. 56, line 4; P-1813: [CAR-OTP-2069-0035-R02](#), para. 71; T-180, pp. 30-31, 35-37; T-182, p. 46, lines 6-23, p. 48, line 7 to p. 49, line 1, p. 53, lines 6-7; D29-5015: T-254, p. 55, line 26 to p. 56, line 1; *contra* P-1838: T-216, p. 25, line 25 to p. 26, line 6; [CAR-OTP-2055-2610](#) from [00:01:26] to [00:01:26] / [CAR-OTP-2107-6906](#), p. 6909, lines 39-74; See also [CAR-D29-0013-0030](#); [CAR-D29-0013-0028](#); [CAR-D29-0002-0086](#). See also [CAR-OTP-2118-0723](#) / [CAR-D29-0006-0761](#), p. 0761, line 26: '*On travaille avec l'armée française*'. [CAR-D29-0004-3897](#).

¹⁶⁸² P-1813: T-180, p. 30, line 9 to p. 31, line 2, p. 35, line 19 to p. 36, line 3, p. 36, line 12 to p. 37, line 2; T-182, p. 46, lines 6-23; See also, D29-5015: T-254, p. 55, line 26 to p. 56, line 18.

¹⁶⁸³ [CAR-D29-0002-0086](#); [CAR-D29-0013-0030](#).

¹⁶⁸⁴ P-1647: [CAR-OTP-2050-0654-R02](#), paras. 44, 67; T-195, p. 56, lines 9-18.

¹⁶⁸⁵ P-1647: [CAR-OTP-2050-0654-R02](#), para. 43; T-195, p. 53, lines 7-17.

¹⁶⁸⁶ D29-5014: T-257, p. 31, line 28 to p. 32, line 25; see also, P-0446: T-096, p. 83, lines 19-28; T-099, p. 88, lines 11-28; P-0888: T-122, p. 20, lines 3-28, p. 21, line 1, p. 28, lines 21-25.

¹⁶⁸⁷ P-1595: T-106, p. 41, lines 10-13. See also P-2084: [CAR-OTP-2094-0968-R02](#), para. 61; T-233, p. 12, line 26 to p. 13, line 1, p. 18, lines 19-21; D29-5015: T-254, p. 45, line 27 to p. 46, line 3; P-0888: T-122, p. 19, line 25 to p. 21, line 1.

¹⁶⁸⁸ D29-5012: T-293, p. 31, lines 27-28, p. 33, lines 1-14.

continued while the RFACPP was present on the axis. D29-5015 testified that rudimentary checkpoints could be found ‘everywhere’; that each village would usually have checkpoints at their entry- and exit-points; and that during the events, checkpoints established by local inhabitants could appear from one day to another sometimes erected with the aim of detecting foreigners or even exacting revenge.¹⁶⁸⁹ [REDACTED] to having intervened to rescue two Muslims who had been stopped and threatened at a checkpoint erected and manned by local youths on the [REDACTED] prior to the Mbaïki church meeting.¹⁶⁹⁰ [REDACTED] being stopped by two youths in cagoules armed with hunting rifles near Bagandou.¹⁶⁹¹ P-1647 stated that as many as 24 such ‘illegal’ checkpoints had been established along the 107 km-long axis by self-proclaimed ‘anti-balaka’ (aka ‘fake anti-balaka’); and he recounted an incident whereby he personally dismantled one such checkpoint at Boyali (near Pissa) at the end of January 2014.¹⁶⁹² D29-5013 noted checkpoints established by youths in ‘nearly all of the villages’ on the axis, also around the time of the meeting at St-Jeanne d’Arc Church.¹⁶⁹³ RFACPP members did not operate these ‘illegal checkpoints’, nor did they receive or collect money therefrom. In such a context, crimes and misconduct attributed to unspecified ‘anti-balaka’ at unspecified or non-RFACPP checkpoints along the axis thus cannot support the OTP case.

487. Incidents that allegedly occurred at PK9 cannot be automatically attributed to the RFACPP: there were in fact two distinct, independently-operating checkpoints at PK9, on either side of the bridge.¹⁶⁹⁴ RFACPP members were stationed on the west side; and elements of [REDACTED] were stationed on the east side (where a gendarmerie post was located and where MISCA elements were also present). [REDACTED] stated as much, even identifying it on video.¹⁶⁹⁵ His post-facto reversal and claim that Mr. Yekatom was in fact responsible for the east checkpoint, once confronted with evidence of misconduct there,¹⁶⁹⁶ only serve to highlight his unreliability and his desperation to unfairly incriminate Mr. Yekatom.

488. While P-0954 claimed in his statement that Mr. Yekatom launched offensives against Muslims in various villages after Djotodia’s resignation, he later conceded during his testimony that he did not personally witness these events,¹⁶⁹⁷ and when pressed, he changed his narrative, suggesting

¹⁶⁸⁹ D29-5015: T-256, p. 12, line 23 to p. 13, line 15, p. 13, line 28 to p. 14, line 12.

¹⁶⁹⁰ [REDACTED].

¹⁶⁹¹ [REDACTED].

¹⁶⁹² P-1647: T-195, p. 50, line 13 to p. 51, line 12.

¹⁶⁹³ D29-5013: T-285, p. 51, lines 2-16.

¹⁶⁹⁴ See e.g. P-2389: [CAR-OTP-2104-0033-R03](#), para. 48 (regarding P-2389’s anonymous hearsay claims as to the beating and killing of Muslims at PK9).

¹⁶⁹⁵ [REDACTED].

¹⁶⁹⁶ [REDACTED].

¹⁶⁹⁷ P-0954: [CAR-OTP-2048-0171-R03](#), para. 96.

the offensives targeted armed Seleka members therefore not civilians.¹⁶⁹⁸

489. P-2353's account of being threatened by individuals with machetes while stopped at a PK9 checkpoint, in the presence of gendarmes and MISCA soldiers, must therefore be understood as having occurred at the east side of the bridge, and not at the RFACPP-operated west checkpoint.¹⁶⁹⁹ Similarly, P-1823's account of his voyage from Bangui to Mbaïki, and his interaction with 'anti-balaka' at the east PK9 bridge (i.e. [REDACTED]), whereby the [REDACTED] he was travelling in was stopped and searched for Muslims, thus does not support the OTP case.¹⁷⁰⁰ In any event, this uncorroborated account is manifestly unreliable, including his claim to have seen Mr. Yekatom among the 'anti-balaka' present. For one, the timing of the incident is materially incoherent: per P-1823, it occurred between [REDACTED];¹⁷⁰¹ yet it is the Seleka that controlled PK9 throughout that period, and RFACPP members were still based in Yamwara.¹⁷⁰² He gave contradictory accounts as to his prior knowledge of Mr. Yekatom,¹⁷⁰³ and his confused reasoning suggests further chronological incoherence: he stated that his prior knowledge of Mr. Yekatom was due to the latter having been 'presented to him' on his arrival in Mbaïki – which necessarily suggests that P-1823 had first met or learned of Mr. Yekatom when he arrived in Mbaïki after the latter had attained a degree of fame in the region.¹⁷⁰⁴ He also claimed to know the individuals with whom [REDACTED], but when pressed, was unable to name a single one.¹⁷⁰⁵ The incoherencies in his evidence are too fundamental to be dismissed on the basis of the stress that he repeatedly cited when unable to answer questions about the incident and other events; and such levels of stress only demonstrate the overall lack of reliability of his recollection of the incident and/or of his 'recognition' of the individuals involved.¹⁷⁰⁶ In any event, even

¹⁶⁹⁸ P-0954: T-168, p. 59 lines 1-5.

¹⁶⁹⁹ P-2353: [CAR-OTP-2100-0226-R03](#), para. 67; T-162, p. 12, lines 4 to p. 13, line 10 (see also, where the P-2353 stated that he was threatened by unspecified 'people' who 'came onto the road', which clarifies the OTP-drafted statement that left some ambiguity as to whether the 'anti-balaka' manning the checkpoint had been threatening the witness). See above, regarding the presence of gendarmes and MISCA forces at the east side of the bridge; and see, P-1647: [CAR-OTP-2050-0654-R02](#), para. 44 (where P-1647 states that the RFACPP PK9 checkpoint 'did not have a gendarme presence').

¹⁷⁰⁰ P-1823: T-183, p. 61, line 26 to p. 62, line 2.

¹⁷⁰¹ P-1823: T-183, p. 57, line 8 to p. 59, line 16, p. 59, line 26 to p. 60, line 4 (where he states that he left Bangui for Mbaïki 'a few days' after the imam of Petevo was attacked i.e. on 13 December 2013; and he emphatically rejects the suggestion that he spent New Year's Day 2014 in Bangui); [CAR-D29-0016-0097](#).

¹⁷⁰² P-1839: T-170, p. 40, lines 10 to 14.

¹⁷⁰³ P-1823: [CAR-OTP-2063-0369-R02](#), [REDACTED]; T-183, p. 17, lines 8-12 ('*Je reviens encore là dessus. M. Yekatom, moi, je le connaissais pas*'), p. 64, line 15 ('*Parce que moi, je le connaissais pas, mais le fait de dire: « Voilà le chef. »*').

¹⁷⁰⁴ P-1823: T-183, p. 79, line 14 to p. 80, line 11; see also, [CAR-OTP-2063-0369-R02](#), para. 33; Regarding Mr. Yekatom's anonymity in and lack of links to Mbaïki prior to the events, see, e.g. D29-5015: T-255, p. 30, lines 22-25; P-1813: [CAR-OTP-2069-0035-R02](#), paras. 40-41.

¹⁷⁰⁵ P-1823: T-183, p. 66, lines 10-20.

¹⁷⁰⁶ See e.g. P-1823: T-183, p. 13, lines 5-14, 19-27, p. 17, lines 8-15, p. 23, lines 6-24, p. 25, lines 23-28, p. 58, lines 8-15, p. 66, lines 15-19, see in particular, p. 74, lines 11-19 (where he refers to the inability to distinguish between 'anti-balaka' and Christian self-defence groups, stating 'at the time, with the stress, I couldn't make the distinction: who is who? Who is doing what?').

assuming that elements were trying to identify Muslim civilians,¹⁷⁰⁷ P-1823's account does not suggest any intent to mistreat, let alone harm any that might have been identified; nor can any such intent be inferred. Merely trying to identify Muslims in vehicles exiting Bangui – i.e. racial profiling – falls far short of criminal conduct, especially in the prevailing volatile security context, not least the atrocities being perpetrated by the retreating Seleka.¹⁷⁰⁸

b) Muslims left the axis due to coercive circumstances that were not created or contributed to by the RFACPP

i) Bangui-Bouchia killings and other crimes that allegedly occurred in Lobaye *prior* to the RFACPP advance along the axis cannot be attributed to the RFACPP

490. The Chamber received evidence suggesting that the progressive exodus of Muslims from towns and villages along and near the axis was set in motion by the October 2013 killing of two Muslims in Bangui-Bouchia.¹⁷⁰⁹ These killings cannot be attributed to the RFACPP. The (anonymous) hearsay evidence purportedly linking the RFACPP to these killings is rendered fundamentally unsafe by the tendency of OTP witnesses to (whether consciously or otherwise) attribute blame for crimes committed in Lobaye to Mr. Yekatom and the RFACPP, on the basis of the prominent role that they subsequently assumed there following the resignation of Djotodia. This conclusory tendency – which in fact can be seen in the hearsay evidence underpinning other crime-base charges¹⁷¹⁰ – is neatly reflected in P-2354's evidence on this point: 'RAMBO had united all Anti-Balaka in the region of Lobaye and that is how I know that RAMBO was in charge of these Anti-Balaka elements who committed [the Bangui-Bouchia killings]'.¹⁷¹¹

491. In fact, the evidence indicates that no information linking Mr. Yekatom or the RFACPP to these killings existed contemporaneous to the events; and that the discrepancy between this contemporaneous lack of information as to the perpetrator(s) of the killings and the hearsay evidence of OTP witnesses that allege RFACPP involvement is a product of this conclusory tendency. This is neatly illustrated by the evidence of P-1666, who stated: 'We didn't know what really happened during the attack; it was after the retreat of the Seleka that we learned that it was

¹⁷⁰⁷ Noting the manner in which the term 'Muslim' was used to refer to Seleka; see Section IV.A.1.b).

¹⁷⁰⁸ See above.

¹⁷⁰⁹ P-1595: [CAR-OTP-2104-0274-R02](#), para. 44; P-1666: T-231, p. 23, line 23 to p. 24, line 16; [CAR-D29-0005-0497](#), p. 0499.

¹⁷¹⁰ See also, P-1528: [CAR-OTP-2048-0757-R05](#), para. 50; T-179 p. 78, line 17 to p. 79, line 15 (where P-1528 confirms that his prior claim that Mr. Yekatom's and his group were responsible for 'killings and the looting of houses' was merely based on 'rumours' he heard that Mr. Yekatom was the chief of the 'anti-balaka' of Boeing).

¹⁷¹¹ P-2354: [CAR-OTP-2105-0991-R03](#), para. 39; see also para. 28 (regarding the conclusory nature of his evidence regarding the presence of 'anti-balaka' in the bush around Bangui-Bouchia, itself based on his having learned from [REDACTED] on a training run having seen FACA 'anti-balaka' in the bush around Ngerengou, i.e. north of Bangui on the Sibut axis).

Rombhot who controlled all the anti-balaka elements in Lobaye'.¹⁷¹² Likewise, that of P-1595: while his evidence-in-chief implies that he learned contemporaneously that 'anti-balaka' led by 'Rambo' were responsible for the killings,¹⁷¹³ elsewhere in his evidence he had stated that the first time he heard of the 'anti-balaka' or Mr. Yekatom was on 5th December, on the radio – and this was in the context of the combat in Bangui, as opposed to any suggestion of his involvement in incidents in Lobaye.¹⁷¹⁴ P-2353, [REDACTED] (also injured in the attack) [REDACTED], said that he did not know whether Mr. Yekatom was involved with the suspected perpetrating group (referred to as 'siriri'), and confirmed that he had not heard his name at the time.¹⁷¹⁵ Indeed, the perpetrator(s) of the Bangui-Bouchia killings are unidentified across contemporaneous media and NGO reports; likewise, in the official report of the government mission conducted in Bangui-Bouchia in the aftermath of the incident.¹⁷¹⁶ Then Lobaye Prefect P-1813, who participated in this mission, confirmed that at the time, he had no information suggesting that Mr. Yekatom or the RFACPP was involved.¹⁷¹⁷ In such a context, the anonymous hearsay evidence received by the Chamber suggesting RFACPP involvement in these killings cannot be relied upon. P-2419's claim to have heard from anonymous 'Muslims from Bangui-Bouchia' that 'it was RAMBO and his men who killed the man' is thus unsafe, not least given i) it is unclear as to when he heard this information; and ii) that he appears to be unaware that this incident involved two men killed, notwithstanding the very high-profile nature of the killings.¹⁷¹⁸

492. P-1838's account of this incident – in which his clear bias against Mr. Yekatom, and his readiness to fabricate accusations against him is on full display – is particularly unreliable.¹⁷¹⁹ His claim to have been told by an individual who accompanied the injured to Mbaïki hospital that 'one of

¹⁷¹² P-1666: T-230 p. 40, lines 8-15.

¹⁷¹³ P-1595: T-106, p. 12, lines 12-18 ('*Vous savez, il y a eu un incident de ce genre dans un village nommé Boukanga. Les Anti-balaka se sont rendus là-bas, ils l'ont... ils ont tué un monsieur avec son enfant. C'était un monsieur qui avait passé 45 ans dans ce village. Moi même, l'imam, je me suis rendu à Boukanga pour amener le corps à Mbaïki. C'est moi-même qui l'ai amené à Mbaïki, j'ai lavé le corps et j'ai procédé à son enterrement. Qui l'avait... qui avait tué, cet... cet homme ? C'étaient les Anti-balaka. Et on était très, très terrifiés. Et on a appris que leur chefs s'appelaient Rambo.*'); see also, T-106, p. 41, line 20 to p. 42, line 9 (confirming that the above incident is the Bangui-Bouchia killings).

¹⁷¹⁴ P-1595: [CAR-OTP-2104-0274-R02](#), paras. 35, 42; see also, para. 41 (where in his OTP-drafted statement, it is implied that the witness heard that 'crimes were being committed by the elements of RAMBO' following the Bangui-Bouchia killings, whereas again, the witness had not heard of Mr. Yekatom until 5th December at earliest).

¹⁷¹⁵ P-2353: [CAR-OTP-2100-0226-R03](#), paras. 27-29.

¹⁷¹⁶ [CAR-D29-0002-0120](#), p. 0122; [CAR-D29-0005-0497](#), p. 0499; See also, P-2354: T-210, p. 40, line 25 to p. 41, line 6 (where the fact that the Chief of this government mission to Bangui-Bouchia had informed OTP investigators that the killings had been perpetrated by 'the local population of Bangui-Bouchia' that had 'started a resistance movement' is put to P-2354). See also, [CAR-D29-0016-0056](#) (NGO Caritas Centrafrique Bangui-Bouchia Mission Report only indicating that unidentified 'armed men' committed the killings).

¹⁷¹⁷ P-1813: T-182, p. 12, lines 9-21.

¹⁷¹⁸ P-2419: [CAR-OTP-2112-0036-R03](#), para. 23; T-177, p. 17, lines 21-24; P-1666: T-230, p. 39, lines 7-11.

¹⁷¹⁹ P-1838: [CAR-OTP-2100-0252-R05](#), paras. 47-49 (in particular: 'YEKATOM sent his Anti-Balaka elements to kill a Muslim man living in BANGUI-BOUCHIA. They assumed the Muslim elder to be rich and wanted to kill him and seize his property.').

YEKATOM's elements' had 'lost his identity card at the scene of the killing' simply does not withstand scrutiny in the face of the multiplicity of evidence that the identity of the perpetrators of the killings was not known at the time. It beggars belief that such a critical discovery would not become known to more people at the time, including at the very least P-1595, who was among the party that accompanied the injured to Mbaïki, or to P-2353, who visited the injured in hospital; and especially given P-1666's evidence that, given how 'painful' the incident was, 'many people chose to visit the location of the killing, to see what had really happened'.¹⁷²⁰ P-1838's mealy-mouthed half-retraction of this accusation against Mr. Yekatom during his examination by the Defence only underlines the dangerously speculative nature of his evidence more broadly,¹⁷²¹ as does his chronologically incoherent and incorrect claim that the victims had been killed pursuant to a mission 'sent by Yekatom' from Pissa, where 'at that time YEKATOM had established his base'.¹⁷²²

493. In fact, the material risk of contamination via conclusory reasoning and rumour is present in the entirety of the evidence presented on alleged crimes committed by the RFACPP prior to its advance along the axis, which exclusively comprises (and often both anonymous and uncorroborated) hearsay. In this regard, the OTP's strategic decision not to charge Mr. Yekatom with murder for the Bangui-Bouchia killings (or indeed any of these hearsay killings), should be read as an indication of the OTP's own lack of confidence in the strength of this evidence on these claims. The Chamber is therefore not in a position to reasonably rule out that such contamination has occurred, vis-à-vis the original source(s) of these hearsay claims. The prevalence of rumours of crimes and killings that spread throughout Lobaye in that volatile period must be taken into account in this regard.¹⁷²³ The Chamber received evidence of the collective 'psychosis' and panic that took hold of the Muslim community in Lobaye,¹⁷²⁴ as well as the manner in which rumours spread that 'anti-balaka' were 'everywhere in the bush'.¹⁷²⁵

494. For these reasons, P-2419's uncorroborated (mostly anonymous) hearsay account of killings and

¹⁷²⁰ P-1595: T-107, p. 5, lines 5-19; P-2353: [CAR-OTP-2100-0226-R03](#), paras. 27-29; T-162, p. 10, lines 18-20 (where P-2353 states that he does not know whether it was the inhabitants that committed the killings or the 'anti-balaka'); P-1666: T-230, p. 39, lines 1-11; See also, P-2389: [CAR-OTP-2104-0033-R03](#), para. 40 (regarding P-2389's interaction with Seleka travelling to Bangui-Bouchia 'to investigate the incident').

¹⁷²¹ P-1838: T-215, p. 52, lines 16-24 and T-216, p. 19, lines 6-21.

¹⁷²² P-1838: [CAR-OTP-2100-0252-R05](#), para. 49 cf.; T-215, p. 50, lines 11-15 (where he concedes that the incident occurred 'well before' the Seleka departure from Lobaye); see also, P-2389: [CAR-OTP-2104-0033-R03](#), paras. 43-44, 48-49.

¹⁷²³ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 33, 39; T-210, p. 13, lines 13-26, p. 14, line 8 to p. 15, line 1; P-1595: [CAR-OTP-2104-0274-R02](#), paras. 41-42; P-2041: [CAR-OTP-2104-0003-R02](#), paras. 59, 61; T-230, p. 16, lines 12-21, p. 17, lines 6-11; P-2084: [CAR-OTP-2094-0968-R02](#), paras. 42, 52.

¹⁷²⁴ P-1666: T-231, p. 22, lines 14-25.

¹⁷²⁵ P-2354: [CAR-OTP-2105-0991-R03](#), para. 42.

other crimes committed against Muslims¹⁷²⁶ cannot be relied upon. Indeed, P-2419's readiness to blame 'anti-balaka' for crimes against Muslims – or indeed, his readiness to repeat hearsay of the same – is betrayed by his evidence blaming an 'anti-balaka' for the notorious incident of cannibalism that took place in Petevo, which in reality was perpetuated by a civilian youth.¹⁷²⁷

- ii) Muslims' departure from the axis was caused by the interrelated factors of the withdrawal of the Seleka and the outbreak of mass anti-Muslim violence

495. Like in other regions of CAR, anger and resentment towards Muslims for their perceived complicity in widespread Seleka abuses had been steadily building within non-Muslim communities in Lobaye.¹⁷²⁸ Following the resignation of Djotodia, and as the Seleka progressively withdrew from the axis, local civilians and self-defence groups took up arms, seeking 'revenge' against the Muslims they had peacefully lived alongside for years; 'their motivation was retaliation', and the departure of the Muslims.¹⁷²⁹ D29-5013 spoke to Muslim community leaders in villages along the axis who expressed their desire to leave, due to the 'breakdown of trust' between the communities.¹⁷³⁰ Intercommunal tensions erupted in widespread hostility and wanton violence. For instance, in Bagandou, a gang of local youths – notably described by P-2353 as 'local Christians acting like "anti-balaka"' – had set up makeshift checkpoints, and threatened the Muslim population of the town, leading to the departure of many.¹⁷³¹ Among the few who refused to leave was the local imam; the youths killed him, severing his head, placing a cigarette in his mouth, and displaying it on a stick in the middle of the road.¹⁷³² Following the departure of the remaining Muslims, the youths proceeded to destroy

¹⁷²⁶ P-2419: [CAR-OTP-2112-0036-R03](#), paras. 19-20, 22-32; [CAR-OTP-00000611-R01](#), para. 20; T-177, p. 16, lines 12-27, p. 18, line 21 to p. 19, line 15.

¹⁷²⁷ P-2419: [CAR-OTP-2112-0036-R03](#), para. 33; D29-5014: T-257, p. 34, lines 16-25; see also, P-0992: T-092, p. 23, lines 3-11; see also [CAR-D29-0002-0054](#); [CAR-D29-0002-0059](#); and submissions made on these items in ICC-01/14-01/18-2516-Conf-AnxA, items #2, 3.

¹⁷²⁸ D29-5013: T-285, p. 30, lines 4-27, p. 37, line 2 to p. 38, line 1, p. 40, line 16 to p. 41, line 1, p. 44, lines 4-9, p. 51, lines 2-16; D29-5015: T-254, p. 35, lines 10-24, p. 36, line 22 to p. 37, line 4, p. 83, lines 16-20; P-2084: [CAR-OTP-2094-0968-R02](#), paras. 31, 35; P-1666: T-230, p. 29, line 20 to p. 30, line 5; P-2389: [CAR-OTP-2104-0033-R03](#), para. 23; P-0475: [CAR-OTP-2104-0116-R04](#), paras. 30, 45; P-1595: [CAR-OTP-2104-0274-R02](#), paras. 28-30, 36-37; T-106, p. 30, line 11 to p. 32, line 14; P-2419: [CAR-OTP-2112-0036-R03](#), paras. 37, 40-41; P-2389: [CAR-OTP-2104-0033-R03](#), para. 23; P-2353: T-161, p. 70, lines 6-24; P-1813: T-180, p. 17, lines 9-24; D29-5012: T-295, p. 48, line 23 to p. 49, line 2.

¹⁷²⁹ D29-5013: T-286, p. 33, lines 19-28; D29-5012: T-293, p. 59, lines 12-25; P-1813: T-180, p. 18, lines 1-6; P-2084: [CAR-OTP-2094-0968-R02](#), para. 72; P-2084: [CAR-OTP-2104-0033-R03](#), paras. 37, 40.

¹⁷³⁰ D29-5013: T-285, p. 30, lines 4-27.

¹⁷³¹ P-2041: [CAR-OTP-2104-0003-R02](#), paras. 38-41, 43-45; P-2353: [CAR-OTP-2100-0226-R03](#), para. 38.

¹⁷³² P-2353: [CAR-OTP-2100-0226-R03](#), para. 38; T-161, p. 20, lines 16-24, p. 21, lines 12-26, p. 22, lines 2-12, p. 75, line 24 to p. 77, line 5; P-2354: [CAR-OTP-2105-0991-R03](#), paras. 41-42; T-210, p. 40, line 8 to p. 41, lines 12; P-2041: [CAR-OTP-2104-0003-R02](#), paras. 39-46; P-1666: T-231, p. 12, line 13 to p. 13, line 16; T-232, p. 10, lines 17-20; D29-5013: T-285 p. 30, lines 4-27.

the town mosque and the departed Muslims' homes.¹⁷³³ In Café Bossongo, local youths destroyed the local mosque, and attacked and killed a local Muslim man named Werasson, when he was caught destroying homes in the town.¹⁷³⁴ In Bimon, the shooting of a civilian by the Seleka on 11 January 2014 sparked mass anti-Muslim violence: an enraged mob of local civilians armed with machetes and sticks, rampaged through the town, burning and looting Muslims' homes. The mob 'completely' destroyed the Bimon Mosque: they burned the roof with gasoline and used hammers to destroy its windows and walls.¹⁷³⁵ In Pissa, the youth destroyed the local mosque and the Muslims' houses after their departure and before the RFACPP's arrival.¹⁷³⁶

496. Muslim refugees reported 'anti-balaka' sightings in the remote areas from where they had fled; rumours spread that 'anti-balaka' were 'everywhere in the bush'.¹⁷³⁷ In the same period, semi-organised 'anti-balaka' groups that had been committing large-scale exactions against Muslim civilians in neighbouring prefectures started to conduct incursions in Lobaye, including in Boganda, Boguere, Boganangone and Boda.¹⁷³⁸ These groups would encourage local youth to improvise as 'anti-balaka' and would incite them against Muslims.¹⁷³⁹ P-1813 testified as to reports received in his capacity as Prefect regarding exactions committed by Wité,¹⁷⁴⁰ the chief of an 'anti-balaka' group operating in the areas of Pama, Boda, and Bouguere,¹⁷⁴¹ which group had in fact operated prior to the conflict as an anti-bandit 'self-defence group'.¹⁷⁴² After killing a prominent Seleka chief in Boganangone, Wité's group began to target Peuhl in the area; the ensuing violence there in the period 24-26 January resulted in 40 deaths and left the locality 'forgotten and abandoned', as noted by P-1813 on the occasion of President Samba-Panza's March 2014 visit.¹⁷⁴³

¹⁷³³ P-2041: [CAR-OTP-2104-0003-R02](#), para. 46; P-1666: T-232, p. 10, lines 7-16; P-2353: [CAR-OTP-2100-0226-R03](#), paras. 38, 54; P-2354: [CAR-OTP-2105-0991-R03](#), paras. 41-42; T-210, p. 40, lines 8-14, p. 41, lines 7-8; D29-5012: T-295, p. 8, lines 6-21.

¹⁷³⁴ P-1838: [CAR-OTP-2100-0252-R05](#), para. 94; D29-5012: T-295, p. 13, lines 9 to p. 15, line 13; D29-5016: [CAR-D29-0009-0576-R01](#), paras. 18-20; see also, P-1666: T-231, p. 11, line 19 to p. 12, line 3; [CAR-OTP-2107-1191](#), [00:00:30] to [00:01:28] / [CAR-D29-0006-0933](#), p. 0933, lines 13-23; Regarding the identity of the perpetrators, see below.

¹⁷³⁵ P-2419: [CAR-OTP-2112-0036-R03](#), paras. 42-43, 45-56; T-177, p. 23, line 20 to p. 25, line 8.

¹⁷³⁶ D29-6048: [CAR-D29-0009-0804-R01](#), paras. 23-24 *contra* P-2389: [CAR-OTP-2104-0033-R03](#), paras. 50-51, referring to the fact that 'anti-balaka' occupied one of his houses, wanted to destroy the other and destroyed the mosque.

¹⁷³⁷ P-2354: [CAR-OTP-2105-0991-R03](#), para. 42.

¹⁷³⁸ P-1666: T-231, p. 22, lines 7-25; P-1813: T-182, p. 42, lines 8-16, p. 42, line 28 to p. 43, line 2; P-1773: [CAR-OTP-2064-0063-R03](#), para. 33 et seq; D29-5012: T-294, p. 71, lines 14-20, p. 78, line 25 to p. 80, line 3; [CAR-OTP-2055-1987](#), pp. 2155-2158; [CAR-OTP-2001-2237](#), pp. 2237, 2244-2245.

¹⁷³⁹ P-1813: T-182, p. 42, lines 8-16, p. 42, line 28 to p. 43, line 2.

¹⁷⁴⁰ Also known as 'Witté-Witté', '88', and variations thereof.

¹⁷⁴¹ P-1813: T-182, p. 43, lines 2-17; P-1773: [CAR-OTP-2064-0063-R03](#), paras. 26, 30 et seq, 80.

¹⁷⁴² D29-5012: T-294, p. 74, lines 14-20, p. 78, line 25 to p. 80, line 3.

¹⁷⁴³ D29-5012: T-294, p. 74, lines 9-28, p. 75, line 6 to p. 80, line 3; D29-5015: T-254, p. 75, line 4 to p. 77, line 28; P-1813: T-182, p. 41, lines 14-26; P-1838: [CAR-OTP-2100-0252-R05](#), para. 43; [CAR-D29-0005-0392](#), p. 0396; [CAR-OTP-2001-2248](#); See also [CAR-OTP-2055-1987](#), p. 2158; [CAR-OTP-2023-1636](#), [00:08:09] to [00:08:50] / [CAR-D29-0006-0107](#), p. 0110, lines 15-21.

497. In Boda, following armed clashes between the town's Muslim and non-Muslim communities (the latter supported by Wité's 'anti-balaka' group), Muslims found themselves trapped in an enclave, surrounded by hostile non-Muslims who demanded their departure from the town.¹⁷⁴⁴ Reports of these Muslims' plight and of the chaos in the locality reached Mbaïki's Muslims, and contributed significantly to the climate of fear in neighbouring Mbaïki.¹⁷⁴⁵
498. When the Seleka decided to withdraw, Lobaye's Muslim civilians, effectively abandoned by their erstwhile 'protectors', were left to face – alone – the deadly consequences of the Seleka's systematic destruction of CAR public security and law enforcement forces, and its engendering of mass anti-Muslim hostility through its campaign of mass abuses against the civilian population.
499. In such a context, the claim that the RFACPP's advance along the axis 'forced Muslim civilians to flee their towns and villages in fear of an imminent attack'¹⁷⁴⁶ is a characteristic OTP distortion of the facts. In reality, the departure of the Muslims from the axis was not the result of the RFACPP advance in any meaningful sense: instead, it was the dual, inter-related factors of the Seleka withdrawal from the axis, and the eruption of mass local anti-Muslim violence that rendered the towns and villages in the Lobaye uninhabitable for their Muslim populations.
500. The Chamber thus received evidence of Muslims' deep fear amid this deadly climate of danger and hostility,¹⁷⁴⁷ and their mass departure from towns and villages across the Lobaye, triggered and/or accelerated by the Seleka withdrawal.¹⁷⁴⁸ The Seleka directly contributed to this mass departure and 'regrouping' of Muslims, by encouraging, organising, facilitating, or actually implementing it.¹⁷⁴⁹ In fact, even prior to the resignation of Djotodia, as tensions mounted in the Lobaye, the 'regrouping' of Muslims in major towns was something of a Seleka 'policy'.¹⁷⁵⁰
501. The Seleka also indirectly contributed to this evacuation, by committing (further) exactions in this period, in the form of reprisal attacks against non-Muslim communities, that rendered

¹⁷⁴⁴ D29-5015: T-254, p. 36, line 22 to p. 37, line 6, p. 38, lines 20-23, p. 39, lines 2-14, p. 71, lines 14-20; See also P-1813: T-180, p. 39, lines 8-19; P-0801: [CAR-OTP-2001-2237](#), p. 2245; P-2324: [CAR-OTP-2100-2002-R02](#), para. 29; [CAR-OTP-2090-0373](#), p. 0378; [CAR-OTP-2042-3463](#) / [CAR-OTP-2107-1526](#); See also [CAR-OTP-2042-3464](#), from [00:01:23] to [00:03:33] / [CAR-D29-0006-0103](#), p. 0103, line 24 to p. 0104, line 21.

¹⁷⁴⁵ D29-5012: T-293, p. 59, line 26 to p. 59, line 8, p. 63, lines 5-8; T-294, p. 21, line 27 to p. 22, line 8, p. 31, line 26 to p. 32, line 21; T-295, p. 48, lines 23-27, p. 78, line 25 to p. 80, line 3.

¹⁷⁴⁶ ICC-01/14-01/18-723-Conf, para. 467.

¹⁷⁴⁷ P-2354: [CAR-OTP-2105-0991-R03](#), para. 42; P-1666: T-231, p. 22, lines 14-25. See above.

¹⁷⁴⁸ P-1838: T-216, p. 9, lines 1-12; D29-5015: T-255, p. 4, lines 16-23; P-1838: [CAR-OTP-2100-0252-R05](#), para. 52; P-2084: [CAR-OTP-2094-0968-R02](#), paras. 71-72; P-2084: T-235 p. 9, lines 7-10; P-1595: [CAR-OTP-2104-0274-R02](#), para. 41.

¹⁷⁴⁹ D29-5012: T-294, p. 40, lines 2-24; D29-5016: [CAR-D29-0009-0576-R01](#), paras. 16-17; P-1813: [CAR-OTP-2069-0035-R02](#), para. 37; P-2354: [CAR-OTP-2105-0991-R03](#), para. 45; T-210, p. 42, line 20 to p. 43, line 4; P-1666: T-231, p. 24, line 17 to p. 25, line 4; D29-5012, T-295, p. 6, line 11 to p. 7, line 1; See also, P-2324: [CAR-OTP-2100-2002-R02](#), paras. 25-26.

¹⁷⁵⁰ D29-6048: [CAR-D29-0009-0804-R01](#), paras. 21-22; D29-5012: T-294, p. 40, line 12 to p. 42, line 16; P-1595: [CAR-OTP-2104-0274-R02](#), paras. 41, 44; P-1813: [CAR-OTP-2069-0035-R02](#), para. 37; P-2354: [CAR-OTP-2105-0991-R03](#), para. 45; T-210, p. 42, line 20 to p. 43, line 4; P-1666: T-231, p. 24, line 21 to p. 25, line 4. cf. D29-5012: T-294, p. 42, lines 14-16: '*c'était... ça s'est passé aussi à Boda, donc à Boda et peut-être dans d'autres localités de Centrafrique. Donc, peut-être c'était un peu leur politique je pense.*'

Muslims' departures from these towns and villages effectively inevitable, in what can be understood as a microcosm of the Seleka-engineered dynamic that led to the rise in anti-Muslim hostility across CAR in the first place. For instance, it was in the wake of the house burning- and killing-spree conducted by the Seleka in Mbata in early January 2014, that the town's Muslim population agreed to Seleka Colonel Anour's 'suggestion' that they be evacuated to Mbaïki 'where they would be protected by the Seleka'.¹⁷⁵¹ Given that these reprisals had been effectively triggered by the local Muslim population having 'called' the Seleka to Mbata, their departure must be understood as the inevitable outcome of the Seleka engendering deadly anti-Muslim sentiment through their abuses of the non-Muslim population. In Safa, Seleka brutally murdered 4 civilians after youth stole sheep belonging to a Boda Seleka chef.¹⁷⁵² The Bangui-Bouchia events are another such microcosm: the government mission subsequent to the reprisal killings and violence conducted by the Seleka noted the 'definitive departure' of the village's Muslim inhabitants for Mbaïki and Bangui, as well as villagers' 'hatred' toward at the Muslim youths who had assisted the Seleka in their attacks by guiding them towards villagers' camps in the bush; and the report (presciently) warned of potential clashes between local non-Muslim and Muslim youths unless something was done to calm the tension.¹⁷⁵³

502. In these circumstances, the mere fact that these departures coincided with the RFACPP's emergence on the axis is not evidence of causation. Indeed, the temporal and geographical scope of these departures is also a clear indication of this: i.e. the fact that Muslims seeking refuge in Mbaïki had also arrived from villages and towns not located along the axis, such as Bagandou or Boboua,¹⁷⁵⁴ or the fact that these departures commenced long before the RFACPP's appearance on the axis.¹⁷⁵⁵

503. More broadly, and for the reasons developed above, crimes or incidents that occurred in areas along the axis cannot simply be attributed to the RFACPP merely on the conclusory basis of the group's presence and/or the basis of the group's purported 'control' of it. Indeed, D29-5015 testified to the impossibility of controlling the axis and preventing incidents there, whether by the RFACPP or by international forces.¹⁷⁵⁶ This conclusory tendency is neatly typified (again) by P-

¹⁷⁵¹ D29-5012: T-294, p. 41, lines 23 to p. 43, line 4; T-295, p. 11, line 16 to p. 12, line 26; P-1813: [CAR-OTP-2069-0035-R02](#), para. 34; P-1666: T-232, p. 9, lines 2-19; See also [CAR-OTP-00002244](#), [00:02:15] to [00:02:34] / [CAR-OTP-00002277](#), p. 0004, lines 36-39.

¹⁷⁵² P-1813: [CAR-OTP-2069-0035-R02](#), para. 30; T-182, p. 16, line 16 to p. 17, line 21.

¹⁷⁵³ [CAR-D29-0005-0497](#), pp. 0499-0500.

¹⁷⁵⁴ See e.g., P-2354: [CAR-OTP-2105-0991-R03](#), para. 42 (citing the arrival in Mbaïki of Muslims from Bagandou, Escade, Mbata, Ndolobo, Café Machado, Safa, Boukoko, Boboua, Boulemba, none of which are villages along the axis. See also P-2084: [CAR-OTP-2094-0968-R02](#), para. 64.

¹⁷⁵⁵ See above, regarding Bangui-Bouchia killings in October 2013.

¹⁷⁵⁶ D29-5015: T-254, p. 55, line 18 to p. 56, line 4.

1838: when it was suggested to him that he did not know who was responsible for the destruction of the mosques along the axis, he stated: *‘mais à partir du moment où vous savez qu’il y a un conflit entre A et B, et si vous constatez que les biens, les maisons, [...] de B ont été détruites, il est facile de conclure qu’elles ont été détruites par A.’*¹⁷⁵⁷ Moreover, the fact that unfounded claims of ‘exactions’ committed on the axis were attributed to Mr. Yekatom on the radio by name during the events further renders unsafe any hearsay evidence suggesting the same.¹⁷⁵⁸ In this regard, the Chamber received evidence as to the manner in which lax CAR media defamation laws, relaxed during the Bozizé regime, had made it possible to level unverified allegations against individuals via the media; and the manner in which people felt forced to act on rumours by ‘taking precautions’ in the volatile climate that prevailed during the events.¹⁷⁵⁹

504. P-1839’s evidence regarding [REDACTED].¹⁷⁶⁰ At the outset, [REDACTED]’s claim is directly contradicted by an eyewitness to the mosque’s destruction.¹⁷⁶¹ P-2419 witnessed the entire destruction of the Bimon mosque on Saturday following Djotodia’s resignation, i.e. 11 January 2014.¹⁷⁶² He testifies that around 50 local residents of Bimon initiated a complete destruction of the Bimon Mosque, with gasoline used to ignite its roof, and walls and windows being broken down by the Bimon youths using sticks and hammers.¹⁷⁶³ P-2419 observed the entire event, recognizing several of the attackers as Bimon inhabitants, some setting fire to the mosque’s roof, burning it down¹⁷⁶⁴ and did not see any ‘anti-balaka’ members involved in the act.¹⁷⁶⁵

505. As a rule moreover, hearsay evidence sourced from [REDACTED] via P-1839 is particularly unsafe. [REDACTED].¹⁷⁶⁶ [REDACTED].¹⁷⁶⁷ P-1839 testified about the tendency of group members to ‘want to prove that they are winners’.¹⁷⁶⁸ [REDACTED];¹⁷⁶⁹ [REDACTED].¹⁷⁷⁰ [REDACTED].¹⁷⁷¹ [REDACTED].¹⁷⁷² In such a context, [REDACTED] uncorroborated and contradicted claim made to P-1839 [REDACTED] is manifestly unsafe, especially given that it

¹⁷⁵⁷ P-1838: T-216, p. 30, lines 21-28.

¹⁷⁵⁸ P-0876: T-085, p. 43, lines 8-17.

¹⁷⁵⁹ P-0889: T-111, p. 14, line 8 to p. 16, line 18; [CAR-OTP-2001-3068](#), p. 3084.

¹⁷⁶⁰ P-1839: T-171, p. 49, lines 5-18.

¹⁷⁶¹ P-2419: T-177, p. 24, lines 3-14.

¹⁷⁶² P-2419: [CAR-OTP-2112-0036-R03](#), paras. 36, 42.

¹⁷⁶³ P-2419: T-177, p. 24, lines 3-22.

¹⁷⁶⁴ P-2419: [CAR-OTP-2112-0036-R03](#), para. 47.

¹⁷⁶⁵ P-2419: [CAR-OTP-2112-0036-R03](#), para. 66.

¹⁷⁶⁶ P-1839: T-170, p. 16, lines 7-16.

¹⁷⁶⁷ P-1839: T-174, p. 36, lines 22-24.

¹⁷⁶⁸ P-1839: T-174, p. 23, line 28 to p. 24, line 2.

¹⁷⁶⁹ P-1839: T-174, p. 24, lines 3-13; and see, T-170, p. 16, lines 17-24; and T-171, p. 47, lines 5-7.

¹⁷⁷⁰ P-1839: T-174, p. 24, lines 7-13.

¹⁷⁷¹ P-1839: T-174, p. 24, lines 22-26.

¹⁷⁷² P-1839: T-173, p. 79, line 16 to p. 80 line 28; and [CAR-OTP-2042-1457](#) [00:02:15] to [00:05:34] / [CAR-D29-0006-0092](#), p. 0093, line 9 to p. 0094, line 21.

falls squarely within the category of fictions – i.e. [REDACTED].

- iii) Plans to evacuate Muslims from Lobaye were in motion prior to the arrival of the RFACPP in Mbaïki

506. While it remains unclear as to exactly when and where the plan to evacuate the Muslims gathered in Mbaïki originated (noting that P-2354 suggested that he was aware that Chadian trucks would come for the Muslims as early as in December 2013¹⁷⁷³), the evidence nonetheless indicates that the evacuation of Mbaïki's Muslims to PK5 and to Chad had been planned and decided prior to the arrival of the RFACPP in Mbaïki on 30 January 2014.¹⁷⁷⁴ In this regard, while the evacuation was discussed during the meeting at St Jeanne d'Arc Church in Mbaïki ('Church meeting'),¹⁷⁷⁵ there is no evidence to suggest that Mr. Yekatom was aware that the evacuation had been planned or decided upon prior to that point.

507. Mbaïki local authorities, including P-1813 and P-1838¹⁷⁷⁶, held meetings with Muslim representatives in which the evacuation was decided 'discretely'; the RFACPP was not present at these meetings.¹⁷⁷⁷ Contact was subsequently made via various channels with the Chadian government to arrange the convoy for the evacuation;¹⁷⁷⁸ and the Muslim community was informed that they would be evacuated by the Chadian military and instructed to be ready to depart on short notice.¹⁷⁷⁹ This was prior to the Church meeting.¹⁷⁸⁰

508. While the evacuation was planned well in advance, those outside the Muslim community and the local political authorities of Mbaïki were not necessarily aware of the details. Mbaïki's Christian religious leaders were not involved in these discussions, and were not aware of the decision or its modalities prior to the Church meeting;¹⁷⁸¹ notably, D29-5012's Muslim counterparts did not

¹⁷⁷³ P-2354: [CAR-OTP-2105-0991-R03](#), para. 62; T-210, p. 43, lines 5-20.

¹⁷⁷⁴ See also [CAR-D29-0002-0676](#), p. 0678: this press article published on 27 January 2014 reports on an imam from Bokoko waiting in Mbaïki for trucks to transport him to Chad.

¹⁷⁷⁵ P-1813: [CAR-OTP-2069-0035-R02](#), para. 53; P-2041: [CAR-OTP-2104-0003-R02](#), para. 52; T-229, p. 94, lines 16-21; D29-5013: T-285, p. 61, line 22 to p. 61, line 9.

¹⁷⁷⁶ Mindful of its previous submissions with regard to P-1838's lack of credibility, the Defence submits that P-1838's account relative to the organisation of the Church meeting is believable since he was present during the meetings and his testimony is corroborated by other evidence, see Section IV.A.3.a.ii).(a).

¹⁷⁷⁷ P-1838: T-215, p. 11, lines 17-19, p. 28, line 18 to p. 29, line 20, p. 57, line 18 to p. 58, line 3; T-216, p. 7, lines 17-20; P-1813: [CAR-OTP-2069-0035-R02](#), para. 53; *Contra* P-1838: [CAR-OTP-2100-0252-R05](#), para. 74; During his examination, P-1838 raised that there was a mistake in his statement (T-215, p. 29, lines 2-4). This is a further example of the discrepancies between P-1838's statement and his testimony in court, see Section IV.A.3.a.ii).(a).

¹⁷⁷⁸ P-1813: [CAR-OTP-2069-0035-R02](#), para. 53; T-180, p. 16, lines 22 to p. 17, line 1; T-182, p. 31, lines 10-21, p. 33, lines 11-27; P-1838: T-215, p. 11, lines 17-19, p. 28, line 18 to p. 29, line 20, p. 57, line 18 to p. 58, line 3; T-216, p. 7, lines 17-20; P-1595: [CAR-OTP-2104-0274-R02](#), para. 87; P-2389: [CAR-OTP-2104-0033-R03](#), para. 65; See also D29-5015: T-255, p. 4, lines 21-23, p. 6, lines 1-8; T-256, p. 32, lines 5-15.

¹⁷⁷⁹ P-2389: [CAR-OTP-2104-0033-R03](#), para. 66; P-1595: [CAR-OTP-2104-0274-R02](#), para. 87; P-1823: T-183, p. 27, lines 15-17.

¹⁷⁸⁰ D29-5013: T-285, p. 31, line 23 to p. 32, line 5, p. 37, lines 1-15, p. 61, line 22 to p. 62, line 9.

¹⁷⁸¹ D29-5015: T-254, p. 83, line 21 to p. 85, line 14; T-255, p. 4, lines 21-23, p. 6, lines 1-8; T-256, p. 32, lines 5-15.

specifically inform him about the planned evacuation.¹⁷⁸²

509. It was only due to D29-5013's interactions with the Mbaïki Muslims that she understood that they were informed of their evacuation prior to the Church meeting and were waiting for trucks to come and get them.¹⁷⁸³

510. The logistics¹⁷⁸⁴ and coordination of the Chadian convoys also demonstrate that organisation for the evacuation was well underway before the Church Meeting. The evidence shows that the evacuation involved approximately 20 ten-wheel military trucks,¹⁷⁸⁵ accompanied by Chadian military forces that travelled from Chad to Mbaïki,¹⁷⁸⁶ (a journey of approximately two days)¹⁷⁸⁷ with the task of transporting the Muslims to Chad.¹⁷⁸⁸ Given the scale and complexity of this operation, it is implausible to suggest that the Muslims' departure was entirely decided, organised and executed in the period between 30 January 2014 and 6 February 2014. Likewise, the fact that Muslims in Mbaïki had been seen making preparations for their departure 'a few days' prior to the arrival of the convoys.¹⁷⁸⁹

- iv) RFACPP's advance was not a factor in the departure of Muslims from towns and villages along the axis

511. Evidence indicating that the RFACPP's advance was a factor in some Muslims' departure from the axis reveals that this arose from an objectively unfounded belief that the RFACPP would target Muslims that remained.

512. Muslims' fear of the RFACPP appears to have been rooted in their mistaken¹⁷⁹⁰ belief that the

¹⁷⁸² D29-5012: T-294, p. 23, lines 11-23, p. 54, line 11 to p. 55, line 4.

¹⁷⁸³ D29-5013: T-285, p. 31, line 23 to p. 32, line 5, p. 37, lines 1-15, p. 61, line 22 to p. 62, line 9.

¹⁷⁸⁴ The Defence refers to D29-5013, D29-5015 and P-1666's testimony who explain that logistically Muslims were grouped in Mbaïki awaiting the planned evacuation as Mbaïki is a more important locality, close to Bangui and has a more reliable phone network than smaller villages (P-1666: T-231, p. 25, lines 15-22; D29-5015: T-254, p. 81, lines 24-28, T-255, p. 4, lines 16-23, p. 32, lines 5-11; D29-5013: T-285, p. 35, lines 12-28).

¹⁷⁸⁵ P-2354: [CAR-OTP-2105-0991-R03](#), para. 66 (8 trucks); T-210, p. 22, lines 2-5 (12 or 16 trucks); P-1595: [CAR-OTP-2104-0274-R02](#), para. 87 (30 trucks); P-2389: [CAR-OTP-2104-0033-R03](#), para. 68; T-238, p. 11, lines 17-23 (20 trucks); P-2084: [CAR-OTP-2094-0968-R02](#), para. 69; T-235, p. 9, lines 18-19 (61 trucks); D29-5013: T-285, p. 53, lines 4-12 (17 trucks); P-2041: [CAR-OTP-2104-0003-R02](#), paras. 63-65; T-229, p. 101, lines 27-28 (14 trucks); P-2018: T-222, p. 14, line 19 to p. 15, line 2; See also [CAR-OTP-2055-1987](#), p. 2159 (20 large military trucks); [CAR-OTP-2001-2237](#), p. 2245 (20 trucks).

¹⁷⁸⁶ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 63, 66; P-1595: [CAR-OTP-2104-0274-R02](#), para. 87; P-2389: [CAR-OTP-2104-0033-R03](#), paras. 68-69; P-1813: [CAR-OTP-2069-0035-R02](#), para. 59; T-182, p. 35, lines 7-11; P-0475: [CAR-OTP-2104-0116-R04](#), para. 185; P-2353: [CAR-OTP-2100-0226-R03](#), para. 63; D29-5012: T-294, p. 23, lines 15-20; P-2041: T-229, p. 102, lines 3-4.

¹⁷⁸⁷ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 63, 66; P-2389: [CAR-OTP-2104-0033-R03](#), paras. 71-74; P-2041: [CAR-OTP-2104-0003-R02](#), para. 65.

¹⁷⁸⁸ P-2389: [CAR-OTP-2104-0033-R03](#), para. 68; T-238, p. 11, lines 17-23; D29-5013: T-285, p. 53, lines 4-12; P-2084: [CAR-OTP-2094-0968-R02](#), para. 69; P-2041: T-229, p. 102, lines 12-13; See also [CAR-OTP-2055-1987](#), p. 2159; [CAR-OTP-2117-0687](#), p. 0687; [CAR-OTP-2001-2237](#), p. 2246.

¹⁷⁸⁹ P-1813: T-182, p. 35, lines 2-7; D29-5012: T-294, p. 52, line 23 to p. 53, line 13; P-1813: [CAR-OTP-2069-0035-R02](#), para. 59; T-182, p. 35, lines 5-7; D29-5012: T-294, p. 43, line 5 to p. 45, line 7; T-294, p. 46, line 9 to p. 47, line 18; T-295, p. 47, lines 6-14.

¹⁷⁹⁰ See above, regarding the independence of the RFACPP vis-à-vis the 'anti-balaka' in the relevant period.

RFACPP and the ‘anti-balaka’ (whether in the sense of the term applied broadly, or as applied to semi-organised ‘anti-balaka’ groups that were believed, correctly or incorrectly, to have targeted Muslim civilians) were one and the same.¹⁷⁹¹ The Chamber heard evidence as to the manner in which the emergence and rise to prominence of the ‘anti-balaka’ movement generally, including in areas outside Lobaye, engendered fear within Muslim communities along the axis.¹⁷⁹² As a result of this unfounded amalgamation, their broader fear of the ‘anti-balaka’ was thus also misdirected towards the RFACPP and its progression along the axis.

513. This unfounded fear was actively stoked by non-Muslim inhabitants of the axis. In Pissa, Christian youth ‘said that the Anti-Balaka were going to attack [Pissa]’, and local Christians told P-2389’s Muslim family that ‘when the Anti-Balaka comes [*sic*] they will kill all the Muslims’; they eventually fled to Mbaïki after seeing other Pissa Muslims begin to depart.¹⁷⁹³ P-2419 overheard a non-Muslim [REDACTED] in Bimon say that Muslims would be gathered and killed, citing the arrival of ‘our people’ – understood by P-2419 to mean the ‘anti-balaka’.¹⁷⁹⁴ In Bagandou, local youths claimed that they would ‘join the Anti-Balaka’ on their arrival in the village and kill the imam – on which latter threat they followed through – and five other Muslim traders.¹⁷⁹⁵ This phenomenon was writ large in Mbaïki, where hordes of hostile anti-Muslim youths had gathered in the mistaken belief that Mr. Yekatom’s arrival would be the ‘green light’ for an attack on the Muslims refugees that had gathered there.¹⁷⁹⁶

514. Compounding this fear was the misattribution of criminal acts and misconduct to the RFACPP on the conclusory basis that all ‘anti-balaka’ in Lobaye were members of the group and/or under the orders and control of Mr. Yekatom. Much in the same way that witnesses have misattributed crimes in Lobaye *a posteriori* to Mr. Yekatom and/or the RFACPP on the basis of their subsequent appearance and prominence there,¹⁷⁹⁷ witnesses have misattributed crimes committed along the axis to the RFACPP, on the basis of little more than the RFACPP’s perceived ‘control’ thereof. A case in point in this regard is P-1666’s hearsay account of the killing of Werasson, which he mistakenly suggested was perpetrated by the RFACPP, stating that ‘everyone knew that the [‘anti-balaka’ who ‘reigned from PK9 to Mbaïki] were under the command’ of Mr. Yekatom¹⁷⁹⁸ Indeed,

¹⁷⁹¹ See Section IV.A.1.b) and c).

¹⁷⁹² P-2041: [CAR-OTP-2104-0003-R02](#), paras. 25-35; P-1666: T-231, p. 22, lines 7-25.

¹⁷⁹³ P-2389: [CAR-OTP-2104-0033-R03](#), paras. 39-41.

¹⁷⁹⁴ P-2419: [CAR-OTP-2112-0036-R03](#), para. 40.

¹⁷⁹⁵ P-2389: [CAR-OTP-2104-0003-R02](#), paras. 39-40, 45.

¹⁷⁹⁶ See below.

¹⁷⁹⁷ See above.

¹⁷⁹⁸ P-1666: T-231, p. 11, line 17 to p. 12, line 6; cf. D29-5016: [CAR-D29-0009-0576-R01](#), paras. 20, 24-25 (see in particular, where D29-5016 states that RFACPP members did not even have a presence in Bossongo at the time; and see also, D29-5012: T-295, p. 15, lines 1-4: ‘c’était un village, disons, qui était... qui était [...] reconnu comme un village où... que... qu’il y avait des groupes de jeunes un peu violents dans cette localité’.

similarly broad and sweeping claims as to Mr. Yekatom and/or the RFACPP's purported 'control' or presence along the axis were made by a number of witnesses;¹⁷⁹⁹ yet such claims are so vague as to be effectively meaningless, and in the circumstances, do not assist the Chamber in its fact-finding function vis-à-vis these incidents on the axis.

515. Further complicating this picture was the loose labelling of 'anti-balaka': whether as a term automatically applied to others,¹⁸⁰⁰ or self-applied, i.e. the phenomenon of the 'self-proclaimed anti-balaka',¹⁸⁰¹ or indeed its variation, the phenomenon of 'self-proclaimed anti-balaka' falsely claiming to be members of the RFACPP.¹⁸⁰² Multiple witnesses have confirmed the prevalence of these phenomena specifically in Mbaïki and along the axis in the relevant period.¹⁸⁰³

c) The RFACPP presence in Mbaïki was lawful and positively contributed to order and security

i) RFACPP was requested to advance to, and remain present in Mbaïki

516. The RFACPP arrived in Mbaïki subsequent and pursuant to multi-party negotiations and the request of local authorities, religious leaders, and humanitarian agencies.

517. Consistent with the RFACPP's objectives, as set out above, of securing positions on the axis previously held by the Seleka while avoiding direct confrontation with the Seleka, Mr. Yekatom established contact with Mbaïki Seleka chief (and ex-FACA colleague) Colonel Anour and engaged *bona fide* in negotiations seeking reconciliation and the peaceful withdrawal of the Seleka.¹⁸⁰⁴ These negotiations led to contact between then Lobaye Prefect P-1813, who requested Mr. Yekatom to remain in Pissa until a preliminary meeting could be arranged outside Mbaïki, to which request Mr. Yekatom duly agreed.¹⁸⁰⁵ Mr. Yekatom respected the prefect's authority and remained in Pissa. Also attending this preliminary meeting was D29-5012, along with other

¹⁷⁹⁹ See e.g. P-1838: [CAR-OTP-2100-0252-R05](#), para. 96; P-0954: [CAR-OTP-2048-0171-R03](#), para. 79.

¹⁸⁰⁰ See Section IV.A.1.b). See also [CAR-D29-0008-0007](#) / [CAR-D29-0006-1090](#); [CAR-OTP-2074-0075](#) / [CAR-D29-0006-0001](#).

¹⁸⁰¹ P-1813: T-180, p. 17, lines 21-24, p. 22, lines 1-4, p. 27, lines 9-10, p. 28, line 18 to p. 29, line 4; T-182, p. 37, line 16 to p. 39, line 18; D29-5015: T-254, p. 56, lines 19-25. See above, P-1647: T-195, p. 50, line 13 to p. 51, line 12.

¹⁸⁰² P-1813: T-180, p. 30, line 9 to p. 31, line 2; T-182, p. 46, lines 6-23.

¹⁸⁰³ P-1813: T-180, p. 17, line 21-22, p. 26, line 1 to p. 27, line 10, p. 28, line 18 to p. 29, line 4; T-182, p. 24, line 23 to p. 25, line 5; D29-5012: T-293, p. 58, lines 9-15, p. 59, lines 14-25; T-294, p. 42, lines 21 to p. 43, line 4; P-2389: [CAR-OTP-2104-0033-R03](#), para. 62; D29-5013: T-285, p. 31, line 23 to p. 32, line 8; p. 37, line 9 to p. 38, line 1, p. 43, lines 7-27; T-286, p. 16, lines 10-17, p. 17, lines 6-14, p. 55, lines 11-18, p. 55, line 24 to p. 56, line 1; P-1666: T-230, p. 50, lines 15-28; T-232, p. 17, lines 19-24; P-2018: T-222, p. 13, lines 20-22; P-2041: T-229, p. 88, lines 19-22; T-230, p. 12, lines 7 to p. 13, line 15; P-2354: [CAR-OTP-2105-0991-R03](#), para. 49; P-1838: T-216, p. 4, line 14 to p. 5, line 1. See also [CAR-OTP-2023-1636](#), [00:12:00] to [00:12:29] / [CAR-D29-0006-0107](#), p. 0111, line 27 to p. 0012, line 3; [CAR-OTP-2090-0373](#), p. 0377: This Sangaris report distinguishes between the RFACPP movement which it describes as having a '*volonté marquée de s'afficher en tant que néo-FACA et de ses substituer de fait à la MISCA*' and '*des actions de groupe d'autodéfense pouvant mener à des exactions*'.

¹⁸⁰⁴ P-1813: [CAR-OTP-2069-0035-R02](#), para. 42; T-182, p. 23, lines 9-23; D29-5015: T-255, p. 7, lines 10-17; and see above, regarding RFACPP objective on the axis.

¹⁸⁰⁵ P-1813: [CAR-OTP-2069-0035-R02](#), paras. 42-43; T-180, p. 8, lines 17-28.

members of the Mbaïki interreligious platform, established to prevent intercommunity conflict.¹⁸⁰⁶ For his part, via this contact with Mr. Yekatom, D29-5012 was seeking Mr. Yekatom's agreement to participate in an eventual meeting in Mbaïki with the Seleka, with the intention to prevent a confrontation between the two groups, noting that at the time, there had been no indication that the Seleka were planning to withdraw from the town.¹⁸⁰⁷

518. During the meeting, Mr. Yekatom explained that he sought to meet the Seleka to negotiate their peaceful departure from Mbaïki through mutual consent.¹⁸⁰⁸ His interlocutors were convinced that he sought *bona fide* to avoid negatively impacting the local population and to prevent intercommunity violence.¹⁸⁰⁹ P-1813 was wary of mounting tension in Mbaïki exacerbating by the increasing number of 'self-proclaimed anti-balaka' and believed that the sought negotiations could protect the communities in Mbaïki.¹⁸¹⁰ In the same vein, D29-5012 was preoccupied by the prevailing 'climate of fear' arising from the news reaching Mbaïki of intercommunity violence in surrounding localities, including Boda.¹⁸¹¹ In this volatile context, Mr. Yekatom was seen to embody the potential for dialogue and reconciliation.¹⁸¹²

519. P-1813 thus returned to Mbaïki to convey Mr. Yekatom's message to the Seleka. In the meantime, Mr. Yekatom stayed in Pissa. The Seleka agreed to hold a meeting with Mr. Yekatom, and a date was set.¹⁸¹³ Unfortunately, the scheduled RFACPP-Seleka negotiations fell through when the Seleka unexpectedly withdrew from Mbaïki on its eve;¹⁸¹⁴ in its place however, a meeting at the St Jeanne D'Arc Church in Mbaïki was planned for 30 January 2014, at which ongoing security issues were to be discussed.¹⁸¹⁵ P-1813 expressly requested that Mr. Yekatom (who had duly

¹⁸⁰⁶ D29-5012: T-293, p. 52, line 1 to p. 53, line 12; T-295, p. 47, line 22 to p. 48, line 19; P-1813: [CAR-OTP-2069-0035-R02](#), para. 45; T-180, p. 9, line 12 to p. 10, line 19. See also P-1786: T-197, p. 90, lines 22-28.

¹⁸⁰⁷ D29-5012: T-293, p. 52, line 1 to p. 53, line 4, p. 57, lines 4-8; T-295, p. 47, line 22 to p. 48, line 19; D29-5015: T-254, p. 36, lines 12-21, p. 41, line 1 to p. 42, line 2, p. 45, lines 1-8; T-255, p. 30, lines 10-14, p. 35, line 18 to p. 36, line 8; D29-5012: T-293, p. 56, lines 12-14; P-1666: T-230, p. 56, lines 20-22; D29-5012: T-293, p. 55, lines 14-16; D29-5015: T-254, p. 41, line 1 to p. 42, line 2; P-1813, T-180, p. 10, lines 4-19. D29-5012: T-293, p. 56, line 15 to p. 57, line 3, p. 65, lines 14-18; T-294, p. 45, line 25 to p. 46, line 2, p. 47, lines 17-20; P-1595: [CAR-OTP-2104-0274-R02](#), para. 46; P-1838: [CAR-OTP-2100-0252-R05](#), para. 52; P-1666: T-232, p. 18, lines 13-19, p. 26, lines 10-11; D29-5015: T-254, p. 36, lines 12-21; P-1813: [CAR-OTP-2069-0035-R02](#), para. 49; [CAR-OTP-2023-1636](#), from [00:10:46] to [00:11:06] / [CAR-D29-0006-0107](#), p. 0111, lines 14-17. Cf. P-1838: [CAR-OTP-2100-0252-R05](#), para. 66 (where P-1838 makes the unsubstantiated claim that P-1813 went to Pissa to persuade Mr. Yekatom not to attack Mbaïki, which is thus contradicted by the evidence).

¹⁸⁰⁸ P-1813: T-180, p. 12, lines 11-22; T-182, p. 23, line 8-23.

¹⁸⁰⁹ P-1813: [CAR-OTP-2069-0035-R02](#), para. 47; T-182, p. 25, lines 6-9; D29-5015: T-255, p. 7, lines 10-17; see also, P-1813: T-182, p. 54, lines 4-11 (where he states that Mr. Yekatom never 'acted negatively' towards him).

¹⁸¹⁰ P-1813: T-182, p. 24, line 23 to p. 25, line 5.

¹⁸¹¹ D29-5012: T-295, p. 48, lines 20 to p. 49, line 8.

¹⁸¹² D29-5015: T-255, p. 32, lines 6-8.

¹⁸¹³ P-1813: [CAR-OTP-2069-0035-R02](#), para. 48; T-180, p. 13, lines 10-18.

¹⁸¹⁴ P-1813: [CAR-OTP-2069-0035-R02](#), paras. 48-49; T-180, p. 13, lines 10-18.

¹⁸¹⁵ D29-5012: T-293, p. 65, line 14 to p. 67, line 13; D29-5013: T-285, p. 38, lines 20-24, p. 42, lines 7-13; P-1813: T-182, p. 26, lines 6-14. See also [CAR-OTP-2023-1636](#), [00:10:46] to [00:11:06] / [CAR-D29-0006-0107](#), p. 0111, lines 14-17. *Contra* P-1838: [CAR-OTP-2100-0252-R05](#), paras. 70, 75.

remained in Pissa as requested)¹⁸¹⁶ attend, to ensure the security of Mbaïki's Muslim and non-Muslim communities, given the potential for violence in light of the departure of the Muslims' erstwhile 'protectors' and the presence of 'many' self-proclaimed 'anti-balaka' in the town;¹⁸¹⁷ he believed that the non-Muslim population, who mistrusted the authorities, might listen to Mr. Yekatom.¹⁸¹⁸ The Seleka's abrupt departure had fuelled the climate of fear and suspicion in Mbaïki, as rumours had spread that the latter had armed the Muslim community; and authorities remained concerned about the intercommunity violence seen elsewhere would spread to Mbaïki, noting the tendency of youths to such violence.¹⁸¹⁹ In parallel, Mr. Yekatom's participation was also sought and requested by [REDACTED] D29-5013, who likewise was concerned about the clear rise in intercommunity tensions, and the real risk of anti-Muslim violence on the part of local youths in the area.¹⁸²⁰ On 30 January 2014, Mr. Yekatom and RFACPP members thus peacefully entered Mbaïki.¹⁸²¹

520. Following Mr. Yekatom's assurances at the Church Meeting that the RFACPP had no intention of harming Muslims, Mbaïki authorities formed the opinion that the presence of RFACPP members would be a good thing for the town's security; and they deemed Mr. Yekatom to be a key partner in local authorities' objective of ensuring the safety of the local population and preventing conflict, in the absence of any state security forces.¹⁸²² This was notwithstanding the presence of Sangaris, because the latter did not (or was not able to) provide a security presence within Mbaïki's residential neighbourhoods, where the risk of incidents of intercommunity violence was greater.¹⁸²³ [REDACTED] was expressly informed by Sangaris elements that they were not authorised to intervene should acts of intercommunity violence occur; and in fact, it was precisely this lack of external support that gave rise to the need for the Church Meeting.¹⁸²⁴ Mr. Yekatom was thus asked to address the Mbaïki population, to repeat the same assurances he gave in Pissa to promote peace and mediation between the Muslim and non-Muslim communities.¹⁸²⁵

¹⁸¹⁶ P-1813: T-182, p. 39, lines 10-17.

¹⁸¹⁷ P-1813: [CAR-OTP-2069-0035-R02](#), para. 50; T-180, p. 15, lines 3-11, p. 24, lines 6-9.

¹⁸¹⁸ P-1813: T-180, p. 18, lines 7-16, p. 21, lines 4-28.

¹⁸¹⁹ D29-5012: T-293, pp. 58-60.

¹⁸²⁰ D29-5013: T-285, p. 36, lines 1-27, p. 38, lines 9-16, p. 61, lines 16-21; T-286, p. 19, line 22 to p. 22, line 26.

¹⁸²¹ [CAR-OTP-2117-0687](#), p. 0687; [CAR-OTP-2023-1636](#), [00:10:46] to [00:11:06] / [CAR-D29-0006-0107](#), p. 0111, lines 17-18.

¹⁸²² D29-5012: T-293, p. 65 lines 26-28, p. 66, lines 14-25, p. 68, lines 19-27.

¹⁸²³ D29-5012: T-294, p. 61, line 21 to p. 62, line 9.

¹⁸²⁴ [REDACTED].

¹⁸²⁵ D29-5012: T-293, p. 65, line 14 to p. 67, line 13; D29-5015: T-254, p. 43, lines 14-16, p. 49, lines 18-25; T-255, p. 33, lines 16-24; D29-5013: T-285, p. 39, line 15-18, p. 40, lines 7-12; P-1813: T-180, p. 15, lines 7-18; T-182, p. 26, lines 6-14. See also P-1666: T-230, p. 42, line 28 to p. 43, line 4; T-232, p. 12, line 25 to p. 13, line 2; P-2389: T-238, p. 27, lines 6-20; P-2354: [CAR-OTP-2105-0991-R03](#), para. 51.

Subsequently, [REDACTED], RFACPP members were positioned in Mbaïki.¹⁸²⁶

- ii) RFACPP duly made efforts to promote reconciliation and to ensure that the Mbaïki Muslims would remain unharmed amid intercommunity tensions

521. Mr. Yekatom saw the Church Meeting as an opportunity to engage with his ‘Muslim brothers’ in Mbaïki, and informed RFACPP members as much.¹⁸²⁷ He delivered a message of peace, reassurance and reconciliation, emphasising that his aim was to liberate the country from the Seleka; that he harboured no animosity towards the Muslim community; and that he was not there to harm them, but rather to protect both the Muslim and non-Muslim population and ensure free movement. He cautioned that those with ill-intentions towards Muslims would face consequences.¹⁸²⁸ His speech was genuine and sincere;¹⁸²⁹ he had received no prior instructions on what to say, nor were meeting organisers aware of the content of his speech beforehand.¹⁸³⁰ During the meeting, Mr. Yekatom listened attentively to concerns raised.¹⁸³¹ He requested that a Muslim lead the final prayer to conclude the meeting;¹⁸³² Mr. Yekatom shared refreshments and *méchoui* with the meeting attendees, including representatives of the Muslim community.¹⁸³³

522. The meeting organisers and participants, including Muslims, were reassured by his presence in Mbaïki and his speech left them with the impression that he would be a dependable partner in securing Mbaïki and preventing any potential confrontation between the two communities.¹⁸³⁴ [REDACTED] Mr. Yekatom for his intervention.¹⁸³⁵ In his testimony, D29-5015 emphatically denied that he warned Mr. Yekatom of potential legal consequences for his conduct, or otherwise cautioned him or the RFACPP, contrary to the claims of two OTP witnesses.¹⁸³⁶

¹⁸²⁶ D29-5013: T-286, p. 26, line 9 to p. 27, line 24. See below.

¹⁸²⁷ P-1839: T-174, p. 67, lines 19-25.

¹⁸²⁸ D29-5015: T-254, p. 43, lines 16-18; D29-5012: T-293, p. 70, lines 5-21; T-294, p. 11, lines 23-25; P-1666: T-230, p. 41, lines 6-8, p. 42, lines 8-10, p. 43, line 5-10; T-232, p. 15, lines 1-3; P-2041: T-229, p. 92, lines 16-20; T-230, p. 9, line 3-15; P-1595: [CAR-OTP-2104-0274-R02](#), para. 78; T-106, p. 8, lines 9-15, p. 39, lines 22-24, p. 40, lines 5-11. *Contra* P-2084: [CAR-OTP-2094-0968-R02](#), para. 67; T-233, p. 12, lines 12-15: The allegation that Mr. Yekatom said it would be better if Muslims left to avoid bloodshed is completely false and uncorroborated.

¹⁸²⁹ D29-5015: T-254, p. 48, lines 25-27. D29-5015: T-255, p. 7, lines 9-17. D29-5015: T-254, p. 48, lines 25-27; T-255, lines 21-22; P-2084: [CAR-OTP-2094-0968-R02](#), para. 68.

¹⁸³⁰ D29-5015: T-254, p. 48, lines 15-27; D29-5012: T-293, p. 65, lines 20-21.

¹⁸³¹ D29-5013: T-285, p. 42, line 24 to p. 43, line 1.

¹⁸³² P-1839: T-174, p. 71, line 20 to p. 72, line 8; P-1666: T-230, p. 43, lines 10-12; P-2041: [CAR-OTP-2104-0003-R02](#), para. 55; T-229, p. 94, lines 19-20, p. 96, lines 3-4.

¹⁸³³ P-1595: [CAR-OTP-2104-0274-R02](#), para. 77.

¹⁸³⁴ D29-5012: T-293, p. 65, lines 23-28, p. 68, lines 12-27; T-294, p. 11, line 11 to p. 12, line 6; D29-5015: T-254, p. 54, line 28 to p. 55, line 2; T-255, p. 7, lines 9-17; P-1595: T-106, p. 41, lines 8-9; P-1666: T-230, p. 50, lines 15-28; T-232, p. 17, lines 6-9.

¹⁸³⁵ P-1666: T-232, p. 17, lines 6-9; P-1595: T-106, p. 41, lines 4-9.

¹⁸³⁶ D29-5015: T-254, p. 50, lines 13-22; D29-5012: T-294, p. 13, line 7 to p. 14, line 4. *Contra* P-2041: [CAR-OTP-2104-0003-R02](#), paras. 52, 54-55; [CAR-OTP-2104-0021-R01](#), p. 0022; T-229, p. 91, lines 5-6, p. 92, lines 14-15, p. 93, lines 8-13, p. 93, line 25 to p. 94, line 7. The Defence submits that the notes [REDACTED] during the Church meeting ([CAR-OTP-](#)

523. The positive impact of his speech at the Church Meeting was such that Mr. Yekatom was asked to repeat his message of peace: first, to the crowd of agitated locals that had gathered outside the Church;¹⁸³⁷ and again at the bus stop.¹⁸³⁸ Aware that the local population gathered¹⁸³⁹ sought violence against the Muslim community, Mr. Yekatom was unwavering and warned them against harming the Muslim population.¹⁸⁴⁰ He repeated the exact same message of peace that he had given at the Church meeting, in full knowledge that he would disappoint many;¹⁸⁴¹ and the consistency of his message in this regard is further evidence of his sincerity. His speech to the population was ‘decisive’ in lowering tensions.¹⁸⁴²

524. At the end of the meeting, Mr. Yekatom was implored to leave associates in Mbaïki, in order to protect the Muslim community until their evacuation,¹⁸⁴³ further evidencing that attendees believed in Mr. Yekatom’s good intentions. There was fear of a bloodbath given the tensions between both communities¹⁸⁴⁴ and they trusted that Mr. Yekatom could ensure the security of the Muslim community.

525. Mr. Yekatom’s speeches, which effectively defused the situation and eased tensions, reassuring the Muslim community,¹⁸⁴⁵ were credited by a representative of the Muslim community for the absence of confrontation that day.¹⁸⁴⁶ Mr. Yekatom created an atmosphere of security in the Lobaye.¹⁸⁴⁷ His words were necessary to prevent the Muslim community from being attacked

[2104-0021-R01](#)) should be given no weight since [REDACTED] cannot read nor write in French (see [CAR-OTP-2104-0003-R02](#), p. 0003; [CAR-OTP-00001501-R01](#)). In the absence of any indication of [REDACTED], it is impossible to know if they are contemporaneous. *Contra* P-2354: T-210, p. 21, lines 18-19.

¹⁸³⁷ D29-5013: T-285, p. 43, line 28 to p. 44, line 25; P-1666: T-230, p. 43, lines 20-24; D29-5012: T-294, p. 12, line 25 to p. 13, line 6; D29-5015: T-254, p. 43, lines 21-24, p. 48, line 28 to p. 49, line 7, p. 49, lines 14-25. See also [CAR-D29-0010-0182](#) and [CAR-D29-0010-0183](#).

¹⁸³⁸ P-1666: T-230, p. 44, lines 1-5; P-1595: [CAR-OTP-2104-0274-R02](#), para. 78; T-106, p. 8, lines 16-19; D29-5015: T-254, p. 43, lines 21-24.

¹⁸³⁹ *Contra* P-2041: T-230, p. 10, lines 18-22, p. 12, line 16 to p. 13, line 15, p. 12; P-2354: T-210, p. 17, lines 1-2; P-2041 and P-2354’s claims that the individuals gathered outside the Church were not members of the RFACPP movement but rather, local non-Muslims is speculation since neither witness was present (P-2041: T-230, p. 10, lines 10-22; P-2354: [CAR-OTP-2105-0991-R03](#), para. 54). P-2041’s confusion further illustrates the difficulty in distinguishing between local youth self-defence groups and RFACPP members which is compounded by the fact that he is not from Mbaïki ([CAR-OTP-2104-0003-R02](#), para. 44). *Contra* P-1666: T-230, p. 43, line 27 to p. 44, line 1: As discussed below, P-1666’s testimony is unreliable as to his distinction between RFACPP members and local non-Muslim youth.

¹⁸⁴⁰ D29-5015: T-254, p. 44, lines 8-13, p. 54, lines 26-28; D29-5012: T-293, p. 67, line 10 to p. 68, line 11; P-1813: [CAR-OTP-2069-0035-R02](#), paras. 55-56; T-182, p. 30, lines 3-5; P-2354: [CAR-OTP-2105-0991-R03](#), para. 54; P-2041; T-230, p. 10, lines 10-18; P-1558: [CAR-OTP-2105-0195-R01](#), para. 30.

¹⁸⁴¹ D29-5015: p. 35, line 21 to p. 36, line 7, p. 43, line 2 to p. 44, line 14; D29-5012: T-293, p. 67, lines 15-20; P-1666: T-230, p. 44, lines 4-5; P-1595: [CAR-OTP-2104-0274-R02](#), para. 79; P-1813: [CAR-OTP-2069-0035-R02](#), para. 56; T-182, p. 29, line 14 to p. 30, line 24.

¹⁸⁴² D29-5012: T-293, p. 67, lines 14-15; D29-5015: T-254, p. 54, lines 27-28.

¹⁸⁴³ D29-5013: T-285, p. 44, lines 21-25; T-286, p. 27, lines 5-11.

¹⁸⁴⁴ D29-5013: T-285, p. 37, line 2 to p. 38, line 1, p. 40, lines 7-12, p. 43, line 5 to p. 44, line 25, p. 45, lines 7-17.

¹⁸⁴⁵ P-1666: T-230, p. 44, lines 4-7, p. 50, lines 15-28; T-232, p. 17, lines 6-9, p. 19, line 25 to p. 20, line 3; P-1813: T-182, p. 29, line 20 to p. 30, line 8; D29-5012: T-293, p. 67, lines 22-25; T-294, p. 13, line 15-16; P-2354: [CAR-OTP-2105-0991-R03](#), para. 54.

¹⁸⁴⁶ [REDACTED].

¹⁸⁴⁷ D29-5015: T-254, p. 54, line 28 to p. 55, line 2; P-1838: T-216, p. 11, line 26 to p. 12, line 1.

because the ‘indigenous’ population would not listen to the rare local authorities left whom they regarded as accomplices of the Seleka and the Muslim community.¹⁸⁴⁸

526. In period between Mr. Yekatom’s speeches and the departure of the Muslims, there was calm in Mbaïki.¹⁸⁴⁹ Witnesses testified that crimes were not committed by the RFACPP while in Mbaïki.¹⁸⁵⁰ Insider witnesses in the RFACPP movement were adamant that they had no problems with the Muslim community in Mbaïki.¹⁸⁵¹ Mr. Yekatom himself was vocal about his positive relationship with the Muslim community: that he was raised with Muslims, grew up with them, and had nothing against them.¹⁸⁵²

527. While in Mbaïki, Mr. Yekatom personally introduced himself¹⁸⁵³ to the representatives of the Muslim community; he reassured them by reiterating that he was not an ‘anti-balaka’ but rather a FACA and that he was not there to hurt Muslims but to protect them; and he provided them with his phone number and encouraged them to contact him if they experienced any harassment or felt threatened.¹⁸⁵⁴ To further reassure them, he introduced them to a Muslim RFACPP member named Saleh.¹⁸⁵⁵ Mr. Yekatom assured the Muslim community, i.e. ‘his brothers’,¹⁸⁵⁶ that there would be no attacks.¹⁸⁵⁷ P-1595 gave an account of his first interaction with Mr. Yekatom outside the mosque: how Mr. Yekatom smiled and gave a friendly wave upon hearing that P-1595 was an imam; and how this interaction left him feeling reassured.¹⁸⁵⁸ When Mr. Yekatom was not in Mbaïki, he would inquire with D29-5012 to ask if everything was calm, further evidencing his ongoing objective of ensuring security.¹⁸⁵⁹

528. Ouandjio too shared his phone number with Muslim representatives, likewise urging them to contact him in the event of an attack or any incident involving uncontrolled elements, so that he

¹⁸⁴⁸ P-1813: T-180, p. 18, lines 2-16, p. 21, lines 4-28.

¹⁸⁴⁹ P-1666: T-230, p. 50, lines 27-28, p. 54, lines 7-8; T-232, p. 17, lines 6-9, p. 21, lines 8-23; P-1595: p. 8, line 25; P-2354: T-210, p. 17, lines 18-19; P-1838: T-215, p. 18, lines 1-5; D29-5012: T-294, p. 13, lines 15-16, p. 21, line 25 to p. 22, line 8, p. 24, lines 2-11, p. 60, line 23; D29-5013: T-285, p. 46, lines 19-21; P-1786: T-197, p. 87, lines 25-27, p. 88, lines 20-22. See also [CAR-OTP-2042-3036](#), from [00:06:59] to [00:08:11] / [CAR-OTP-2135-1631](#), p. 1636, lines 88-99; [CAR-OTP-2090-0373](#), p. 0377.

¹⁸⁵⁰ D29-5012: T-294, p. 21, line 25 to p. 22, line 8; D29-5013: T-285, p. 46, lines 19-21; P-1666: T-231, p. 10, line 28 to p. 11, line 10; P-1786: T-197, p. 87, lines 25-27, p. 88, lines 20-22; P-1595: [CAR-OTP-2104-0274-R02](#), para. 52; P-1838: T-215, p. 41, lines 15-16; P-2354: T-210, p. 19, line 2.

¹⁸⁵¹ P-1786: T-197, p. 88, lines 20-21, p. 90, line 14; P-1647: [CAR-OTP-2050-0654-R02](#), para. 48.

¹⁸⁵² D29-5013: T-285, p. 73, lines 5-9; P-1595: T-106, p. 8, lines 13-14. See also P-1595: [CAR-OTP-2104-0274-R02](#), para. 78; P-2041: T-230, p. 9, lines 9-15; P-2354: T-210, p. 20, lines 18-19, 28. See also [CAR-OTP-2107-1191](#), [00:19:11] to [00:29:10] / [CAR-D29-0006-0933](#), p. 0933, lines 10-12.

¹⁸⁵³ [REDACTED].

¹⁸⁵⁴ [REDACTED].

¹⁸⁵⁵ [REDACTED].

¹⁸⁵⁶ [REDACTED].

¹⁸⁵⁷ [REDACTED].

¹⁸⁵⁸ P-1595: [CAR-OTP-2104-0274-R02](#), para. 74; T-106, p. 7, lines 13-15, 19.

¹⁸⁵⁹ D29-5012: T-294, p. 19, line 23 to p. 20, line 5.

could intervene.¹⁸⁶⁰ He further reassured the Muslim traders that he himself was Muslim and that his objective was to fight the mercenaries, and requested that anyone who had received weapons from the Seleka return them.¹⁸⁶¹

529. Evidence indicates that Mr. Yekatom actively attempted to dissuade Muslims from departing Mbaïki. When P-2353 encountered Mr. Yekatom and RFACPP members near [REDACTED], Mr. Yekatom inquired about P-2353's destination and urged him not to go into exile, advising him instead to remain in Bangui, as the situation would soon stabilise, allowing him to return to Mbaïki; he emphasised that he understood the hardships of exile and did not want the departing Muslims to endure the same.¹⁸⁶²

iii) RFACPP did not create or contribute to coercive conditions in Mbaïki

530. For similar reasons set out above,¹⁸⁶³ allegations as to exactions or coercive conduct on the part of unspecified 'anti-balaka' cannot be automatically attributed to the RFACPP movement.¹⁸⁶⁴ This is especially the case given the evidence received as to the prominence of local civilians and/or groups, labelled as 'anti-balaka' (whether externally or otherwise) and displaying hostility towards Muslims, active in Mbaïki.¹⁸⁶⁵ These local anti-Muslim civilian(s) or 'groups' existed prior to the arrival of the RFACPP, as evidenced *inter alia* by the crowd of youths that had gathered outside the Church Meeting¹⁸⁶⁶ – and indeed, as set out above, the prevalence of (and threat to order posed by) these hostile civilians/groups was a primary reason that the Church Meeting was held in the first place. In such a context, OTP witnesses' characteristic tendency to amalgamate perceived 'anti-balaka' to the RFACPP renders such evidence insufficiently

¹⁸⁶⁰ [REDACTED].

¹⁸⁶¹ [REDACTED].

¹⁸⁶² P-2353: [CAR-OTP-2100-0226-R03](#), para. 66.

¹⁸⁶³ See above, Section IV.B.3.b).

¹⁸⁶⁴ See e.g. P-1595: [CAR-OTP-2104-0274-R02](#), paras. 68-69, 85; T-106, p. 9, lines 11-15, p. 10, lines 1-5, lines 9-13; P-2353: [CAR-OTP-2100-0226-R03](#), paras. 53-55; T-161, p. 27, line 1 to p. 28, line 21, p. 76, line 24 to p. 77, line 5; P-1838: [CAR-OTP-2100-0252-R05](#), para. 36; P-1666: T-230, p. 31, lines 8-18, p. 32, lines 3-10; P-1823: [CAR-OTP-2063-0369-R02](#), para. 32; T-182, p. 24, lines 2-22; P-1838: [CAR-OTP-2100-0252-R05](#), para. 98; P-2018: T-222, p. 13, line 25 to p. 14, line 2.

¹⁸⁶⁵ P-1813: T-180, p. 17, line 21-22, p. 26, line 1 to p. 27, line 10, p. 28, line 18 to p. 29, line 4; T-182, p. 24, line 23 to p. 25, line 5; D29-5012: T-293, p. 58, lines 9-15, p. 59, lines 14-25; T-294, p. 42, lines 21 to p. 43, line 4; P-2389: [CAR-OTP-2104-0033-R03](#), para. 62; D29-5013: T-285, p. 31, line 23 to p. 32, line 8; p. 37, line 9 to p. 38, line 1, p. 43, lines 7-27; T-286, p. 16, lines 10-17, p. 17, lines 6-14, p. 55, lines 11-18, p. 55, line 24 to p. 56, line 1; P-1666: T-230, p. 50, lines 15-28; T-232, p. 17, lines 19-24; P-2018: T-222, p. 13, lines 20-22; P-2041: T-229, p. 88, lines 19-22; T-230, p. 12, lines 7 to p. 13, line 15; P-2354: [CAR-OTP-2105-0991-R03](#), para. 49; P-1838: T-216, p. 4, line 14 to p. 5, line 1. See also [CAR-OTP-2023-1636](#), [00:12:00] to [00:12:29] / [CAR-D29-0006-0107](#), p. 0111, line 27 to p. 0012, line 3; [CAR-OTP-2090-0373](#), p. 0377: This Sangaris report distinguishes between the RFACPP movement which it describes as having a '*volonté marquée de s'afficher en tant que néo-FACA et de ses substituer de fait à la MISCA*' and '*des actions de groupe d'autodéfense pouvant mener à des exactions*'.

¹⁸⁶⁶ D29-5012: T-293, p. 58, lines 9-15, p. 59, lines 14-25; T-294, p. 42, lines 21 to p. 43, line 4; P-2353: [CAR-OTP-2100-0226-R03](#), paras. 53-55; T-161, p. 76, line 24 to p. 77, line 5; P-2354: T-210, p. 16, lines 16-25, p. 21, lines 7-23; P-1813: T-180, p. 15, lines 7-11, p. 26, line 1 to p. 27, line 10, p. 28, line 18 to p. 29, line 4; T-182, p. 24, line 23 to p. 25, line 5, p. 39, lines 10-19; D29-5013: T-285, p. 31, line 23 to p. 32, line 8, p. 43, lines 7-27; P-1666: T-230, p. 50, lines 22-24; T-232, p. 17, lines 19-24; P-2041: T-230, p. 11, line 23 to p. 12, line 6.

precise.¹⁸⁶⁷

531. Further complicating the matter of identification is the arrival in Mbaïki of three pick-up trucks full of ‘anti-balaka’ associated with FACA [REDACTED] and ‘anti-balaka’ [REDACTED] ComZone [REDACTED].¹⁸⁶⁸ While the exact date(s) of his five-day stay in Mbaïki are unclear, it is clear that his stay coincided with the period between the Church Meeting and the evacuation of the Muslims.¹⁸⁶⁹

532. The Mbaïki mosques were not destroyed by the RFACPP while it was present in Mbaïki,¹⁸⁷⁰ rather, they were partially destroyed by local delinquents, after the evacuation of the Muslims.¹⁸⁷¹ The RFACPP did not pillage or take possession of Muslims’ houses in Mbaïki.¹⁸⁷²

533. The unreliability of these allegations is further underscored by the widespread rumours¹⁸⁷³ and claims in the media¹⁸⁷⁴ that Mr. Yekatom was committing exactions specifically targeting the Muslim population on the Bangui-Mbaïki axis.

534. P-2354’s assertion regarding ‘anti-balaka’ ‘that had arrived with RAMBO in the town’ appears to be another instance of misleading statement drafting, given that at the time of Mr. Yekatom’s arrival, RFACPP members were not in fact based at the Town Hall; and as such, his basis for this specification is unreliable.¹⁸⁷⁵ In any event, the fact that Mr. Yekatom indicated that he would ‘deal with the matter’ of ‘anti-balaka’ threats and [REDACTED] should call him if he ‘had problems with his elements’ does not comprise an admission that these individuals are RFACPP members under his control.¹⁸⁷⁶ Rather, Mr. Yekatom was acting in line with his objective of security. In any event, P-2354’s evidence on this point is also tainted by his conclusory assumption that Mr. Yekatom is the leader of all ‘anti-balaka’ in the Lobaye, based on radio broadcasts and hearsay.¹⁸⁷⁷

535. P-2353’s allegations regarding harassment of Muslims at the Mbaïki Market cannot be safely attributed to RFACPP members, given that he confirmed that this harassment had been ongoing

¹⁸⁶⁷ See e.g., P-2353: [CAR-OTP-2100-0226-R03](#), para. 53 (‘The elements who were issuing threats were RAMBO’s elements. I know this because RAMBO stated at the church that he was in charge of the Anti Balaka.’); and see above.

¹⁸⁶⁸ P-0974: [CAR-OTP-2058-0165-R01](#), paras. 52, 87-90.

¹⁸⁶⁹ [REDACTED].

¹⁸⁷⁰ D29-5013: T-285, p. 64, lines 13-16; D29-5012: T-294, p. 63, lines 10-20; *contra* P-2018: T-222, p. 14, lines 13-18; T-223, p. 42, lines 2-9.

¹⁸⁷¹ P-1813: [CAR-OTP-2069-0035-R02](#), para. 60; D29-5012: T-294, p. 62, line 10 to p. 63, line 20; P-1838: [CAR-OTP-2100-0252-R05](#), para. 119. *Contra* P-1595: [CAR-OTP-2104-0274-R02](#), para. 94; [CAR-OTP-2001-2308](#), p. 2331.

¹⁸⁷² P-1647: T-196, p. 9, line 14-27, p. 16, line 20-27.

¹⁸⁷³ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 33, 39; T-210, p. 13, lines 13-26, p. 14, line 8 to p. 15, line 1; P-1595: [CAR-OTP-2104-0274-R02](#), paras. 41-42; P-2041: [CAR-OTP-2104-0003-R02](#), paras. 59, 61; T-230, p. 16, lines 12-21, p. 17, lines 6-11; P-2084: [CAR-OTP-2094-0968-R02](#), para. 52.

¹⁸⁷⁴ P-0876: T-085, p. 43, lines 9-17; P-1962: [CAR-OTP-2068-0037-R04](#), para. 122.

¹⁸⁷⁵ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 53, 57; T-210, p. 15, line 2 to p. 16, line 16.

¹⁸⁷⁶ P-2354: [CAR-OTP-2105-0991-R03](#), para. 58.

¹⁸⁷⁷ P-2354: [CAR-OTP-2105-0991-R03](#), paras. 33, 39.

‘well before’ the killing of the imam of Bagandou, i.e. on 25 January 2014; and in any event, his evidence attributing acts to ‘anti-balaka’ is inherently unsafe, given his tendency to conclusory reasoning on this point.¹⁸⁷⁸

536. P-1838’s testimony with regard to Mr. Yekatom and the RFACPP exemplifies his conclusory and speculative tendencies, as well as his readiness to extrapolation from incorrect assumptions, as discussed above;¹⁸⁷⁹ and it also comprises a concerning illustration of the incongruities between statements and in-court testimony.¹⁸⁸⁰ For instance, while asserting in his statement that Mr. Yekatom wanted to kill Muslims, and had gathered anti-Muslim elements and instructed them to cause trouble,¹⁸⁸¹ he admitted during his examination by the Defence that he did not know in fact whether any such orders were given.¹⁸⁸² More alarmingly, P-1838 added that he had ‘a lot of respect’ for Mr. Yekatom and then stated that Mr. Yekatom did not in fact have any intention to harm the Muslim community.¹⁸⁸³ P-1838 also insisted on the veracity of his claim that P-1813 had informed him that Mr. Yekatom wanted to kill P-1813 because he thought he was affiliated to the Seleka, even when he was informed that P-1813 had testified that this allegation was untrue,¹⁸⁸⁴ further shows that he cannot be relied on. P-1838’s claims with regard to Mr. Yekatom’s motive and behaviour simply cannot be given any weight.¹⁸⁸⁵

d) Saleh was not killed by RFACPP members.

- i) Saleh was killed by a mob of Mbaïki locals who harboured hostility towards him for his collaboration with the Seleka

537. The Chamber received corroborated evidence as to the marked hostility harboured by the non-Muslim population towards Saleh. Saleh was seen as a Seleka collaborator. He was among those Mbaïki Muslims who travelled to Bangui-Bouchia in the aftermath of the killing of two Muslims there in October 2013 and, along with Seleka elements, conducted deadly reprisal attacks against the non-Muslim population of the town.¹⁸⁸⁶ He had also participated in similar Seleka reprisals in Mbata in January 2014: taking up arms, travelling with the Seleka and lending his vehicle for the

¹⁸⁷⁸ P-2353: [CAR-OTP-2100-0226-R03](#), paras. 53-55 (in particular, ‘The elements who were issuing threats were RAMBO’s elements. I know this because RAMBO stated at the church that he was in charge of the Anti-Balaka.’); T-161, p. 27, line 1 to p. 28, line 21, p. 76, line 24 to p. 77, line 5.

¹⁸⁷⁹ See Section IV.A.3.a.ii).(a).

¹⁸⁸⁰ See Section IV.A.3.a.ii).(a). See also: On the presence of the Seleka when the RFACPP entered Mbaïki, see P-1838: [CAR-OTP-2100-0252-R05](#), para. 75; T-215, p. 28, lines 7-17; T-216, p. 6, lines 3-5 cf. T-216, p. 6, line 23 to p. 11, line 5. See above.

¹⁸⁸¹ P-1838: [CAR-OTP-2100-0252-R05](#), paras. 66, 98. See also para. 114.

¹⁸⁸² P-1838: T-216, p. 12, line 18 to p. 14, line 8.

¹⁸⁸³ P-1838: T-215, p. 14, lines 26-28; T-216, p. 32, lines 1-12.

¹⁸⁸⁴ P-1838: [CAR-OTP-2100-0252-R05](#), para. 51; T-215, p. 55, line 8 to p. 56, line 6; P-1813: T-182, p. 54, lines 12-15.

¹⁸⁸⁵ P-1838: [CAR-OTP-2100-0252-R05](#), paras. 36, 79, 110.

¹⁸⁸⁶ P-1813: T-182, p. 7, line 26 to p. 8, line 3, p. 9, lines 2-8; [CAR-D29-0002-0080](#); see above, regarding Bangui-Bouchia killings and reprisals.

purpose.¹⁸⁸⁷ The non-Muslim population of Mbaïki took his participation in these attacks particularly badly; having up until then seen him as a proud ‘son of [Lobaye]’, they felt particularly betrayed.¹⁸⁸⁸ He also allowed his truck to be used to transport goods pillaged by the Seleka.¹⁸⁸⁹ Saleh was also of Chadian origin – a national identity that was the subject of particular hostility on the part of non-Muslims during the events.¹⁸⁹⁰ At the time of his killing, rumours had been circulating that he was harbouring ‘ill-intentioned’ people at his home.¹⁸⁹¹

538. In this regard, and whatever Saleh’s own motivations for collaborating,¹⁸⁹² the above factors tragically made him the quintessential target of the deadly anti-Muslim mob violence that broke out cross CAR at the end of 2013. Indeed, then Lobaye Prefect P-1813 had personally advised Saleh to leave Mbaïki, even temporarily, knowing that he would inevitably be attacked for having participated in deadly Seleka reprisals.¹⁸⁹³ An [REDACTED], having themselves heard that Saleh was ‘not appreciated by the community’ and had been threatened, had likewise advised him to leave during the evacuation, given the risks he faced if he remained in Mbaïki.¹⁸⁹⁴ An Mbaïki imam ‘pleaded on several occasions’ with him to leave.¹⁸⁹⁵ The inhabitants of Mbaïki were thus ‘surprised’ when he chose to remain when the Muslims were evacuated, acting ‘as though he had been neutral’ during the Seleka period.¹⁸⁹⁶

539. The Chamber received corroborated evidence that Saleh was attacked and killed by a large mob of local Mbaïki inhabitants, after he attacked a group of youths that had been demonstrating outside his home, demanding that he leave the town.¹⁸⁹⁷

- ii) No reliable evidence to suggest that RFACPP members were involved in the killing of Saleh

540. First, hearsay evidence that ‘anti-balaka’ were responsible for the killing does not meaningfully support the OTP case. As set out above, the label ‘anti-balaka’ was so widely applied or claimed

¹⁸⁸⁷ P-1813: T-182, p. 55, lines 1-7; [CAR-D29-0002-0080](#).

¹⁸⁸⁸ P-1813: T-182, p. 66, lines 10-27.

¹⁸⁸⁹ P-1838: T-215, p. 8, line 27 to p. 9, line 4.

¹⁸⁹⁰ D29-5013: T-285, p. 23, lines 5-12, p. 56, lines 5-7; [CAR-OTP-2065-0436](#) / [CAR-OTP-2107-1539](#). See also [CAR-D29-0005-0392](#), p. 0438.

¹⁸⁹¹ D29-5012: T-295, p. 35, lines 12-15; P-1666: T-231, p. 41, lines 8-16.

¹⁸⁹² See, P-1838: [CAR-OTP-2100-0252-R05](#) (where witness states that Saleh had been forced to help the Seleka move the stolen goods).

¹⁸⁹³ P-1813: T-182, p. 54, line 24 to p. 55, line 10, p. 62, lines 6-13.

¹⁸⁹⁴ [REDACTED].

¹⁸⁹⁵ P-1595: [CAR-OTP-2104-0274-R02](#), para. 96.

¹⁸⁹⁶ P-1813: T-182, p. 66, lines 10-27.

¹⁸⁹⁷ P-1786: T-197, p. 91, line 11 to p. 92, line 2; [CAR-OTP-2001-0446](#) (stating that Saleh was ‘attacked by his own neighbours’); [CAR-D29-0002-0686](#), pp. 0686-0688; [CAR-D29-0002-0080](#) (2 Mach 2014 Radio Ndeke Luka report, stating that ‘several youths’ had confirmed that Saleh had attacked the demonstrators, injuring three, which then sparked anger of the youths, leading them to kill him.).

at the time, including in Mbaïki, so as to effectively render it meaningless for the purposes of determining whether an individual was a member of the RFACPP.¹⁸⁹⁸

541. The above-noted tendency towards conclusory reasoning likewise contaminates the evidence brought on Saleh's killing. When asked how he knew it was the 'anti-balaka' that killed Saleh, P-2353 could only point to the fact that it was the 'anti-balaka' who reigned in Mbaïki', stating 'it was them who controlled the city'; no further support for his accusation was provided.¹⁸⁹⁹ P-1838's accusations are likewise (and typically) conclusory: when asked the basis of his accusation that 'Mr. Yekatom's men killed Saleh', he stated that it was simply because at some point an 'anti-balaka' group had rented a home next to Saleh's, according to him, with the aim of surveilling his activities (for which latter claim he provides no support); and he tellingly stated: 'it could only be' them.¹⁹⁰⁰ He later speculated further: despite conceding that no one told him who the perpetrator was; he stated that he could conclude that the perpetrators were 'anti-balaka' on the basis of hearsay information he had received that a female 'anti-balaka' had severed Saleh's penis and taken it to Pissa where the main 'anti-balaka' base is found.¹⁹⁰¹ P-1838's uncorroborated claim that Ouandjio had previously 'interrogated' Saleh in a 'threatening' manner, 'because at the time there were no more Muslims in Mbaïki',¹⁹⁰² must be disregarded, given not only his demonstrable and dangerous readiness to present conclusory reasoning as fact in his evidence; but more specifically, given that Ouandjio had died prior to the evacuation of the Mbaïki Muslims,¹⁹⁰³ thus rendering the very basis of the supposed threat logically and chronologically incoherent. In any event, even assuming *arguendo* that RFACPP members had rented a home next to Saleh, or that Ouandjio threatened him, these allegations do not give rise to a reasonable inference that RFACPP members were involved in his killing, given the available evidence regarding the sequence of events leading thereto. At most, they would reflect a degree of apprehension and suspicion harboured by RFACPP members and/or Ouandjio towards Saleh, which could not be deemed unreasonable in the circumstances, given Saleh's repeated prior involvement in deadly Seleka

¹⁸⁹⁸ See Section IV.B.3.c.iii). See also below, regarding evidence that 'anti-balaka' under Victor Cobo were responsible for the killing of Saleh.

¹⁸⁹⁹ P-2353: T-161, p. 34, line 34 to p. 35, line 8.

¹⁹⁰⁰ P-1838: T-215, p. 22, line 24 to p. 23, line 10; [CAR-OTP-2100-0252-R05](#), para. 100 (see in particular, where P-1838 again exhibits this conclusory tendency, in claiming that 'anti-balaka' were 'posted around Saleh's house [...] by YEKATOM, on the basis that 'YEKATOM must have given the instruction because, without [it] they would not have been able to occupy these houses'.)

¹⁹⁰¹ P-1838: T-215, p. 38, lines 8-15; T-216, p. 22, line 16 to p. 23, line 17.

¹⁹⁰² P-1838: T-215, p. 18, line 25 to p. 19, line 3, p. 19, lines 17-26; T-216, p. 12, lines 6-17 (where P-1838 repeatedly claims that the supposed reason for these threats was the fact that Saleh had remained in Mbaïki after the departure of the Mbaïki Muslims).

¹⁹⁰³ Multiple Mbaïki Muslim witnesses heard that Ouandjio had been killed or saw his body prior to being evacuated; see e.g., P-1666: T-232, p. 6, lines 7-14; P-2041: [CAR-OTP-2104-0003-R02](#), para. 62.

attacks on civilians in Bangui-Bouchia and Mbata; his apparent access to firearms; and rumours circulating as to his harbouring of ‘ill-intentioned’ persons at his home, all of which must be considered against the backdrop of the volatile climate of insecurity prevailing at the time.¹⁹⁰⁴

542. The Chamber also received evidence that evacuated Mbaïki Muslims had been exposed to information, including via Facebook, accusing the ‘anti-balaka’ of committing or having been involved in the killings, thus rendering hearsay evidence on this matter particularly unsafe.¹⁹⁰⁵

543. The evidence of P-2475 and P-1339 regarding the killing of Saleh is manifestly unsafe.¹⁹⁰⁶ In particular, the Defence notes that P-1339 made no mention of the killing in his initial statement to OTP investigators; and that his account in testimony materially diverges from the evidence as the circumstances of this killing, not least in his description of Saleh as a ‘Muslim youth’; his claim that Saleh was killed [REDACTED]; and his claim there were only [REDACTED] involved in the attack.¹⁹⁰⁷

544. The Defence notes P-1647’s evidence that Honorine Mbafolo was among the crowd of civilians that killed Saleh.¹⁹⁰⁸ P-1647’s account is unclear as to the degree of her ‘participation’ in the killing,¹⁹⁰⁹ as is reflected in OTP Counsel’s subsequent questioning about Mbafolo’s alleged involvement ‘in the killing and/or mutilation of Saleh with Mr. Yekatom?’¹⁹¹⁰ The Defence also notes the evidence suggesting that the mob that attacked Saleh numbered approximately 100 people, and was of such a magnitude that the gendarmes present were unable to intervene in his killing.¹⁹¹¹ Nor does the video depicting the mistreatment and mutilation of Saleh’s dead body provide sufficient clarity as to the cause/perpetrators of the killing.¹⁹¹²

545. In any event, while P-1647 suggests that she was ‘one of our elements’, his evidence in this regard does not allow for a finding that she was a RFACPP member under the authority of Mr. Yekatom.¹⁹¹³ For one, the Chamber has received evidence that just weeks before Saleh’s killing, P-1647 himself accompanied Ouandjio to Boda in full knowledge that Mr. Yekatom had expressed disagreement with Ouandjio’s plan in this regard; and that Mbafolo had been in Mbaïki

¹⁹⁰⁴ See above.

¹⁹⁰⁵ P-2354: [CAR-OTP-2105-0991-R03](#), para. 68; P-2041: T-229, p. 99, lines 22-28 (see in particular, where he states that he heard this but ‘did not know the exact circumstances of his killing’, and provides no other information on the matter); see also, P-1838: T-216, p. 23, lines 6-8 (stating that ‘everyone was saying’ that it was the ‘anti-balaka’ that killed Saleh, because at the time ‘anti-balaka’ and muslims were opposed’).

¹⁹⁰⁶ See Section II.C.2.a) and b).

¹⁹⁰⁷ P-1339: T-154, p. 5, line 27 to p. 6, line 12, p. 11, lines 6-11.

¹⁹⁰⁸ P-1647: T-194, p. 61, line 18 to p. 62, line 22.

¹⁹⁰⁹ P-1647: T-194, p. 62, line 24 to p. 63, line 22 (where P-1647 ultimately clarifies that it was ‘civilians from Mbaïki who caused [the death], but [Honorine] participated’).

¹⁹¹⁰ P-1647: T-194 [ENG], p. 66, lines 10-11.

¹⁹¹¹ P-1813: T-182, p. 59, lines 6-18; P-1647: T-194, p. 63, lines 14-16; [CAR-OTP-2001-2707](#), p. 2728.

¹⁹¹² [CAR-OTP-2059-0384](#).

¹⁹¹³ P-1647: T-194, p. 63, lines 4-8.

with Ouandjio and was present for the phone conversation during which Mr. Yekatom's disagreement was expressed.¹⁹¹⁴ It also heard evidence that following Ouandjio's death, his group disbanded and abandoned their posts.¹⁹¹⁵ Moreover, the Defence notes [REDACTED] that the woman who severed Saleh's genitals was an element of an 'anti-balaka' group led by Mbaïki local Victor Cobo, which included Prince Mondounga (seen in video following Saleh's death); and that this group was particularly hostile to Muslims;¹⁹¹⁶ and further, that no one in this video appears to be wearing a military attire.¹⁹¹⁷

546. Lastly, the Defence notes P-1838's characteristically unreliable claim that Mr. Yekatom was 'expelled' from Mbaïki following the killing of Saleh.¹⁹¹⁸ The Chamber received evidence of a meeting held involving *inter alia* representatives of local authorities and MISCA forces in the aftermath of Saleh's killing, in which among the matters discussed was the support of MISCA forces as well as the regrouping of the 'anti-balaka' in a safe place.¹⁹¹⁹ P-1838 thus appears to have made an unfounded and conclusory link between MISCA's having taken control of the Mbaïki roundabout in the aftermath of Saleh's killing, with the 'expulsion' of Mr. Yekatom, on the basis of a conversation that he saw taking place between Mr. Yekatom and MISCA representatives – in which he did not take part, and after which he did not speak to Mr. Yekatom.¹⁹²⁰ Moreover, the suggestion that MISCA 'expelled' Mr. Yekatom following Saleh's killing would be inconsistent with the frequent operational support and assistance that the former sought from him through 2014.¹⁹²¹

4. CHILD SOLDIERS

a) Child soldiers were not recruited or used by the RFACPP

i) Positive evidence of absence of children under the age of 15 in the RFACPP

547. Evidence in the case demonstrates the absence of any conscription, enlistment and use of children under the age of 15 to participate actively in hostilities in the RFACPP. Witnesses, including insiders, testified that there were no child soldiers in the RFACPP.¹⁹²² Evidence also established

¹⁹¹⁴ P-1647: [CAR-OTP-2050-0654-R02](#), paras. 50-51; See also, T-194, p. 63, line 23 to p. 64, line 5 (regarding fact that Sette punished Mbafole for her participation); T-196, p. 13, line 5 to p. 14, line 5.

¹⁹¹⁵ See Section IV.A.3.a.ii).(b).

¹⁹¹⁶ [REDACTED]; [CAR-D29-0010-0012](#); See also, P-1666: T-231, p. 44, lines 4-27.

¹⁹¹⁷ [CAR-D29-0010-0012](#); see above, regarding RFACPP members being obliged to wear military uniforms while on mission.

¹⁹¹⁸ P-1838: [CAR-OTP-2100-0252-R05](#), para. 99.

¹⁹¹⁹ [CAR-D29-0002-0080](#).

¹⁹²⁰ P-1838: T-215, p. 34, line 10 to p. 35, line 5.

¹⁹²¹ See above section IV.A.2.b.ii); see also P-1813: [CAR-OTP-2069-0035-R02](#), para. 73.

¹⁹²² P-1647: T-194, p. 23, lines 15-19: '*Aux alentours... Aux alentours, j'ai vu... Aux alentours, j'ai vu les enfants, mais pas dans le groupe*', p. 28, lines 13-16: '(...) *ces enfants-là, ils viennent pour puiser leur... l'eau. (...) Des enfants comme ça, ils fait ... ils peut pas nous aider à l'époque, là*'; P-1786: T-197, p. 34, lines 9-19: '*Mais dire qu'il y avait des enfants de... de tel âge, par*

that members did not use drugs.¹⁹²³

- ii) Unreliability of the evidence on potential presence of children under the age of 15 in the RFACPP

548. Evidence shows that children and youth often gathered around bases or roadblocks, either to sell goods or out of curiosity. P-1647 and P-1786 described children near the Yamwara base fetching water and selling food or water,¹⁹²⁴ a pattern similarly noted by D29-6036 at Pissa's roadblock.¹⁹²⁵ Witnesses emphasised that the presence of children near roadblocks did not indicate affiliation with any group,¹⁹²⁶ as many young individuals claimed to be 'anti-balaka' without actual membership.¹⁹²⁷

- iii) Unreliability of the evidence as to the age and membership in the RFACPP

549. Multiple witnesses indicated that determining an individual's age based on physical appearance was unreliable.¹⁹²⁸ P-1990 noted that poverty and malnutrition affect children's morphology, making age estimation particularly challenging.¹⁹²⁹ This is evident in P-1647's photographs from 2015 and 2016, where he appeared significantly younger despite being 27 and 28 years old, respectively.¹⁹³⁰ P-1647 also testified that in 2013, the Seleka failed to recognize him due to his youthful appearance, despite specifically seeking to arrest him.¹⁹³¹ Such limitations are replicated in these proceedings.

550. P-1839 testified of the presence in the RFACPP of what she describes as three 'children': [REDACTED],¹⁹³² but that was an estimation.¹⁹³³ In reality, [REDACTED] were both 17 at the relevant period of time.¹⁹³⁴ Further, P-1839, [REDACTED] stated that Mr. Yekatom was treating [REDACTED] as his own children with love and that they did not have any role within the

exemple, au sein des Anti-balaka, je... je n'en ai pas vu; See also P-1786: [CAR-OTP-2058-0200-R03](#), para. 25; See also P-1558: [CAR-OTP-2105-0195-R01](#), para. 39; P-1990: [CAR-OTP-2124-0247-R02](#), para. 26; P-1838: [CAR-OTP-2100-0252-R05](#), para. 110; T-215, p. 46, line 25 to p. 47, line 1; D29-6036: T-260, p. 5, lines 6-11; D29-5015: T-256, p. 20, lines 12-21; D29-6025: T-263, p. 26, lines 11-18, p. 27, lines 21-22.

¹⁹²³ P-1839: T-173, p. 28, line 18 to p. 29, line 14; P-1647: T-196, p. 3, lines 7-21.

¹⁹²⁴ P-1647: T-194, p. 23, line 15 to p. 28, line 20; P-1786: T-197, p. 35 line 23 to p. 36, line 11; See also P-0487: T-201, p. 51, lines 3-11; P-0487: T-206, p. 33, line 14 to p. 34, line 9; P-1839: T-172, p. 61, lines 18-27; section IV.B.2.(a)(ii)(b)(i).

¹⁹²⁵ D29-6036: T-260, p. 6, lines 17-22.

¹⁹²⁶ D29-5015: T-256, p. 19, lines 18-27.

¹⁹²⁷ D29-5013: T-286, p. 16, line 10 to p. 17, line 14.

¹⁹²⁸ D29-5015: T-256, p. 17, line 3; P-1576: T-239, p. 33, line 21 to p. 34, line 5; P-2050: [CAR-OTP-2076-0911-R02](#), para. 96.

¹⁹²⁹ P-1990: T-237, p. 6, lines 2-12; P-2082: T-218, p. 48, line 19 to p. 50, line 28.

¹⁹³⁰ [CAR-D29-0010-0017](#); [CAR-D29-0016-0100](#); P-1647: T-195, p. 9, line 28 to p. 11, line 18.

¹⁹³¹ P-1647: T-195, p. 9, lines 14-21.

¹⁹³² P-1839: T-171, p. 6, lines 9-11; T-172, p. 60, lines 1-10; see also P-0888: T-120, p. 77, lines 16-25.

¹⁹³³ P-1839: T-170, p. 64, lined 23-26, p. 65, line 24 to p. 66, line 7.

¹⁹³⁴ [CAR-D29-0013-0095](#) ('Transcription de jugement de reconstitution d'acte de naissance pour [REDACTED]); [CAR-D29-0001-0426](#), pp. 0428-0429; (see also concerning [REDACTED] [CAR-D29-0008-0018](#) / [CAR-D29-0006-1323](#)); [CAR-D29-0013-0094](#) (Acte de naissance de [REDACTED]); [REDACTED] (see P-1839: T-172, p. 51, lines 23-26 [REDACTED] ([REDACTED])).

RFACPP.¹⁹³⁵

551. P-0487 [REDACTED] testified that there were no children [REDACTED]; and that children present were from the neighbourhood.¹⁹³⁶ Information P-0487 provides on the presence of child soldiers in the ‘anti-balaka’ appears to be hearsay related to the ESF demobilisation program.¹⁹³⁷

He states that he is unable to provide information on the age or size of the ‘children’.¹⁹³⁸

552. P-1813 testified that ‘children’ were present at barriers in Pissa and Sekia. His assessment of their age is only based on physical appearance in comparison with the other adults present during his testimony. P-1813 assessed the age to be ‘under 18’.¹⁹³⁹ The membership to any group seems to be based on the fact that they were near the barrier. However, P-1813 never saw the children checking any vehicles and never talked to them.¹⁹⁴⁰

553. P-2018 and P-1974 made an estimation on the age of the children they would have seen at roadblocks based on physical appearance.¹⁹⁴¹ P-2018 says that he determined their membership to the group because they were at the barrier.¹⁹⁴² Moreover, P-1974’s account is tainted by the fact that [REDACTED] was announced; therefore gathering of children at the roadblock must have [REDACTED].¹⁹⁴³

554. P-2082 was [REDACTED]. Her knowledge about the presence of ‘child soldiers’ in the RFACPP at the moment of the ESF demobilisation comes from [REDACTED].¹⁹⁴⁴ On the other hand, P-2082 was regularly travelling in the Lobaye [REDACTED], she says that she never heard of the presence of child soldiers.¹⁹⁴⁵

555. P-0808 attended the Mbaïki ceremony briefly, had no way of knowing whether they were real ‘anti-balaka’ or not¹⁹⁴⁶ and no means to verify the accuracy of the information that the ‘young children’ were part of the RFACPP.¹⁹⁴⁷

556. Both P-2475 and P-2476 were not part of the RFACPP; their description of the alleged presence of any children in the RFACPP is unreliable and cannot be relied upon by the Chamber. Likewise, V45-0001 and V45-0002 fabricated their accounts as they were never part of the RFACPP. Their

¹⁹³⁵ P-1839: T-171, p. 6, line 17 to p. 7, line 2; See also P-0888: T-120, p. 77, lines 16-25.

¹⁹³⁶ P-0487: T-201, p. 51, lines 3-11.

¹⁹³⁷ P-0487: T-201, p. 57, lines 4-10, p. 58, lines 25-26.

¹⁹³⁸ P-0487: T-201, p. 57, lines 4-10.

¹⁹³⁹ P-1813: [CAR-OTP-2083-0279-R01](#), para. 21; T-180, p. 45, lines 20-28, p. 46, lines 1-2.

¹⁹⁴⁰ P-1813: T-180, p. 46, lines 12-14.

¹⁹⁴¹ P-2018: T-222, p. 23, line 28 to p. 24, line 3.

¹⁹⁴² P-2018: T-222, p. 24, lines 23-27.

¹⁹⁴³ P-1974: T-227, p. 20, lines 2-16; P-1974: T-229, p. 16, lines 17-24.

¹⁹⁴⁴ P-2082: T-219, p. 18, lines 2-6; [CAR-OTP-2109-0452-R02](#), para. 33.

¹⁹⁴⁵ P-2082: T-217, p. 72, lines 10-27; P-2082: T-217, p. 73, lines 8-17.

¹⁹⁴⁶ P-0808: T-072, p. 68, lines 15-19.

¹⁹⁴⁷ P-0808: T-072, p. 71, lines 13-21.

evidence has no credibility and manifestly lacks reliability.¹⁹⁴⁸

b) ESF is a fraud

557. The ESF demobilisation program is fraudulent. Members of the NGO as well as members of the RFACPP were involved in the fraud and registered persons in the programme that were not part of the RFACPP and/or were not under the age of 15 at the relevant period of time to benefit from a professional training and receive a financial gratification. In order to receive funds from the UNICEF and meet the criteria, the NGO provided reports containing false information. Therefore, documents and information in relation to ESF cannot be relied upon by the Chamber for Count 29.

i) ESF demobilisation programme is a fraud

(a) *ESF employees are involved in the fraudulent scheme*

558. As described in the above section concerning the fabrication of evidence, ESF employees are involved in the fraudulent scheme of fabrication of evidence.¹⁹⁴⁹ They knew at the time that the participants were not under the age of 15 and/or were not members of the RFACPP. Their objective was to receive personal and professional profits and gain notoriety from the local population.¹⁹⁵⁰ To this end, they registered members of their own family as participants to the training and recruited relatives as staff of the NGO.¹⁹⁵¹ Members of the community also voluntarily registered at the town hall of Pissa or at the training centre in Mbaïki following the ESF call for participation in the villages.¹⁹⁵²

(b) *Members of the RFACPP were aware of the fraudulent character of the demobilisation programme*

559. ESF contacted members of the RFACPP in order to receive identification forms of ‘child soldiers’. They delegated the identification of some of the participants to [REDACTED] without post verifying the information he provided and transmitted the forms to the UNICEF.¹⁹⁵³ Yet it appears that [REDACTED], in accordance with other members of the RFACPP, took the opportunity to register individuals that were not part of the RFACPP and/or were above 15 years

¹⁹⁴⁸See also ICC-01/14-01/18-2252-Conf, paras. 36-58; ICC-01/14-01/18-2240-Conf.

¹⁹⁴⁹Section II.B.3.

¹⁹⁵⁰P-1974: [REDACTED] (see P-1974: T-227, p. 50, line 27 to p. 51, line 6);

¹⁹⁵¹D29-6037: [CAR-D29-0009-0459-R01](#), para. 23 ([REDACTED], #30 on ESF list); P-1974: T-227, p. 51, line 28 to p. 52, line 4 ([REDACTED]); [REDACTED] #15 on the ESF list (P-1974: T-228, p. 73, lines 7-11); [REDACTED] (P-1974: T-228, p. 74, lines 1-13); [REDACTED] (P-2018: T-225, p. 33, lines 11-19, p. 34, lines 17-28; [CAR-OTP-00001381-R01](#)).

¹⁹⁵²[CAR-OTP-2109-0473](#), p. 0476; P-2018: T-224, p. 26, lines 11-16; D29-6037: [CAR-D29-0009-0459-R01](#), paras. 21, 22, 27; D29-6013: [CAR-D29-0009-0324-R01](#), para. 33; see also P-2084: T-235, p. 17, line 24 to p. 19, line 7.

¹⁹⁵³P-1974: [CAR-OTP-2107-1810-R04](#), para. 31; [CAR-OTP-2122-8673-R02](#), para. 22; T-227, p. 60, line 17 to p. 61, line 3; P-2018: T-222, p. 40, line 18 to p. 42, line 5, p. 56, lines 7-21; T-223, p. 83, lines 1-21; T-224, p. 3, line 15 to p. 4, line 1.

old. This is clearly the case for [REDACTED].¹⁹⁵⁴

(c) ESF concealed the fraud from officials

560. ESF was the only organisation implicated in determining the children's eligibility to participate in the program. Neither UNICEF, nor the Ministry of Social Affairs were involved in the selection of the participants.¹⁹⁵⁵ P-2082 [REDACTED] to ESF in October [REDACTED].¹⁹⁵⁶ P-2082 [REDACTED] agreement between ESF and Yekatom, despite [REDACTED].¹⁹⁵⁷ Likewise, P-1813, Prefect of Lobaye, and P-0808, who attended the Mbaïki ceremony, testified that the NGO never provided them with detailed information about the project.¹⁹⁵⁸

(d) There was no methodology followed by the NGO to select the participants

561. First, it appears that the age threshold considered at the time by the NGO was 18, not 15, as reflected in its documentation.¹⁹⁵⁹ The Presiding Judge himself has acknowledged that a project like ESF could have had different priorities, and that age may not have been considered a crucial factor at the time.¹⁹⁶⁰

562. In any event, ESF did not follow any methodology to verify the age of the participants nor to authenticate any alleged membership in the RFACPP: identifying documents were not requested to certify the age and the determination was only based on physical appearance assessment and with information directly provided by the participants.¹⁹⁶¹ [REDACTED] that the NGO would have requested a doctor to provide 'certificates of age appearance',¹⁹⁶² P-2082 and P-1974 deny that such process was ever followed at the time.¹⁹⁶³ P-2018 and P-1974 were unable to provide any reliable information regarding their own assessment of the age of the participants.¹⁹⁶⁴ Yet both categorically refused to admit any flaw in the process. Their strong stance hints at their aim to conceal the program's fraudulent nature. Bias is particularly apparent when P-1974 refused to admit that P-2582, who he knows very well,¹⁹⁶⁵ was above 14 years old at the time while he is

¹⁹⁵⁴ D29-6035: [CAR-D29-0009-0444-R01](#), paras. 22, 25-27, 31, 33; [CAR-OTP-2071-0279-R03](#), lines 23, 42, 43; See also [CAR-D29-0013-0074](#).

¹⁹⁵⁵ P-1974: T-227, p. 81, lines 17-28; P-2082: [CAR-OTP-2109-0452-R02](#), para. 34; T-217, p. 81, line 28 to p. 83, line 7.

¹⁹⁵⁶ P-2082: T-217, p. 82, line 8 to p. 85, line 14; [CAR-OTP-2071-0308](#).

¹⁹⁵⁷ P-2082: T-218, p. 21, lines 12-23; [CAR-OTP-2109-0452-R02](#), paras. 59-60.

¹⁹⁵⁸ P-1813: T-180, p. 52, lines 10-15; P-0808: [CAR-OTP-2093-0010-R02](#), paras. 133-134; T-070, p. 4, lines 21-28.

¹⁹⁵⁹ P-2018: T-222, p. 37, lines 15-23; T-225, p. 22, lines 27-28; P-2082: T-218, p. 25, lines 13-18, lines 20-25; See also P-2018: [CAR-OTP-2071-0279-R03](#): out of 60, 35 individuals are above 15 on the list.

¹⁹⁶⁰ P-2018: T-225, p. 23, lines 20-24.

¹⁹⁶¹ P-2018: T-226, p. 7, lines 25-28: [REDACTED].

¹⁹⁶² [REDACTED].

¹⁹⁶³ P-2082: T-218, p. 48, lines 12-13; P-1974: T-227, p. 80, lines 9-13; P-2476: T-214, p. 8, lines 19-23; see also P-2475: T-132, p. 14, lines 11-23; P-2082: T-218, p. 48, lines 6-13; P-1974: T-227, p. 80, lines 14-19.

¹⁹⁶⁴ P-2018: T-222, p. 37, lines 15-23; T-225, p. 22, lines 27-28. [REDACTED]: T-227, p. 23, lines 23-25, p. 80, lines 20-28, p. 81, lines 9-11; [CAR-OTP-2071-0285](#), p. 0291.

¹⁹⁶⁵ Section II.B.3.

confronted with her baptism card indicating that she was 22 years old.¹⁹⁶⁶ P-2082 and P-2084 testified that the children were older than 15 years old,¹⁹⁶⁷ some in their twenties.¹⁹⁶⁸ Additionally, the birth certificates submitted to date for a large number of participants clearly demonstrate that the age attribution, whether by visual estimation or through information provided by the participants is grossly incorrect.¹⁹⁶⁹

563. Concerning the alleged RFACPP membership of the participants, ESF members either (i) were aware that they were never part of the RFACPP notably because some were their family members¹⁹⁷⁰ or (ii) did not verify the accuracy of the forms provided by [REDACTED]¹⁹⁷¹ nor (iii) did they request any information from the volunteered participants.¹⁹⁷²

(e) ESF documents are fraudulent

564. Documents provided by the ESF are not reliable. The reports contain numerous inconsistencies and false information and the [REDACTED] was unable to provide clear explanation, dissociating himself from [REDACTED] and laying the blame on others when confronted with incoherences, revealing once more the fraudulent nature of the program.¹⁹⁷³ Equally, neither P-2082 nor P-1974 seem to be in position to assert the accuracy of the information [REDACTED].¹⁹⁷⁴

565. ESF pretends to have established a certain methodology in categorising the participants in three categories: separated but unaccompanied, separated but accompanied, and non-separated.¹⁹⁷⁵ [REDACTED] the 60 individuals selected to participate in the training in Mbaïki are all unaccompanied.¹⁹⁷⁶ This distinction is critical, as it implies that children living with their direct

¹⁹⁶⁶ [CAR-D29-0013-0100](#); P-1974: T-228, p. 12, line 9 to p. 13, line 9. [REDACTED]: P-1974: T-227, p. 3, lines 4-7, p. 7, lines 23-27.

¹⁹⁶⁷ P-2084: [CAR-OTP-2094-0968-R02](#), para. 91.

¹⁹⁶⁸ P-2082: T-217, p. 54, lines 16-20: [REDACTED]; T-218, p. 65, lines 26-27.

¹⁹⁶⁹ See below.

¹⁹⁷⁰ See above.

¹⁹⁷¹ P-2018: T-222, p. 30, line 22 to p. 31, line 14.

¹⁹⁷² P-2476: T-213, p. 38, lines 2-6: [REDACTED].

¹⁹⁷³ Examples of inconsistencies: [CAR-D29-0014-0086](#) comparison of the information provided in the different ESF reports; see also [CAR-D29-0014-0088](#) on comparison of the two ESF lists; Examples of false information: wrong indication of the Mbaïki townhall in the report: P-1974: [CAR-OTP-2068-0558](#); P-2084: T-233, p. 23, lines 1-4; absence of a psychologist during the training: [CAR-OTP-2071-0285](#), p. 0290; [CAR-OTP-2068-0568](#), p. 0573, 0577; P-1974: T-228, p. 64, line 4-17; P-2018: T-223, p. 30, lines 12-21; T-224, p. 21, line 6 to p. 22, line 3, p. 28, lines 5-18, p. 56, line 28 to p. 57, line 27, p. 61, line 8 to p. 64, line 14.

¹⁹⁷⁴ [REDACTED] ([CAR-OTP-2068-0568](#)) [REDACTED] (P-1974: [CAR-OTP-2107-1810-R04](#), para. 56; T-227, p. 56, lines 1-10, 17-18, p. 80, lines 9-11); P-2082: T-218, p. 37, lines 11-23, p. 41, lines 20-25, p. 43, lines 12-20; T-219, p. 16, line 23 to p. 17, line 1.

¹⁹⁷⁵ [REDACTED]; [CAR-OTP-2071-0278](#) defining a separated child as ‘any person under the age of 18, separated from both parents or their previous legal or customary guardian, but not necessarily from other family members. An unaccompanied separated child is also separated from all family members, whereas an accompanied separated child lives with family, even distant, or a guardian’. This is the definition applied in the field by ESF see [REDACTED].

¹⁹⁷⁶ [REDACTED].

or extended family in the locality should not benefit from the program at the CTO in Mbaïki.¹⁹⁷⁷
[REDACTED].¹⁹⁷⁸

566. [REDACTED] also provided the Court with [REDACTED] Mr. Yekatom [REDACTED]; yet the NGO COOPI denied any interaction with Mr. Yekatom and participation to such meeting.¹⁹⁷⁹ [REDACTED] uncertain about Mr. Yekatom's presence.¹⁹⁸⁰ Likewise, mention of Coeur de Lion's name [Ouandjio] [REDACTED] while he was already deceased cast doubt on the information provided.¹⁹⁸¹ The reality is that the NGO ESF needed to justify numbers towards the UNICEF and meet criteria in order to receive funds.¹⁹⁸²

ii) ESF lists

567. The First ESF List which includes 60 participants and [REDACTED], lacks both reliability and credibility.¹⁹⁸³

568. The reliability of this list is critically undermined by the weak methodology used for its creation.¹⁹⁸⁴ The list was compiled from self-reported data by participants in the demobilization program at the Mbaïki center, relying entirely on information provided by the individuals themselves—such as their names, ages, return locations, and reference families—without any independent verification from ESF.¹⁹⁸⁵ [REDACTED] participants were providing conflicting information, including different names.¹⁹⁸⁶ [REDACTED] two names referred to the same individual who was presenting under different identities.¹⁹⁸⁷

569. With regard to verification of the age provided by the participants, medical certificates were not provided to establish this list as they were either directed solely to UNICEF,¹⁹⁸⁸ or only considered in later stages of the program.¹⁹⁸⁹ Although contact details for some participants' family members were available, ESF members did not use this opportunity to verify critical information, such as

¹⁹⁷⁷ P-1974: T-227, p. 74, lines 10-15.

¹⁹⁷⁸ [CAR-OTP-2071-0279-R03](#): #14, #19 and #36; See also D29-6013: [CAR-D29-0009-0324-R01](#), paras. 25-28; D29-6018: [CAR-D29-0009-0396-R01](#), para. 14. [REDACTED] P-2476: T-214, p. 20, lines 13-24; P-2018: T-225, p. 27, lines 15-24; P-1974: T-228, p. 62, lines 15-28.

¹⁹⁷⁹ [REDACTED]: [CAR-OTP-2071-0302-R01](#); [CAR-D29-0007-0190](#).

¹⁹⁸⁰ [REDACTED].

¹⁹⁸¹ [CAR-OTP-2071-0282](#).

¹⁹⁸² [REDACTED]: P-2018: T-224, p. 61, line 26 to p. 62, line 11.

¹⁹⁸³ [CAR-OTP-2071-0279-R03](#). The Defence recalls that this is the list it referred to as the '*liste des 60*' during in-court examinations.

¹⁹⁸⁴ On the inconsistencies with the draft version of the First ESF List ([CAR-OTP-2071-0302-R01](#), p. 0305) [REDACTED].

¹⁹⁸⁵ P-2018: T-224, p. 66, line 26 to p. 67, line 9; T-225, p. 8, lines 19-20, p. 9, lines 23-26, p. 10, lines 9-10; P-1974: T-227, p. 80, lines 4-8, p. 85, lines 22-27.

¹⁹⁸⁶ [REDACTED].

¹⁹⁸⁷ [REDACTED].

¹⁹⁸⁸ P-2018: T-225, p. 9, lines 10-15, 24-26, p. 11, lines 12-13.

¹⁹⁸⁹ P-2018: T-224, p. 17, lines 3-9.

the participants' ages or familial backgrounds.¹⁹⁹⁰

570. The Defence has submitted identifying documents demonstrating that many participants on this list were older than indicated on the First ESF list during the ESF program in 2014,¹⁹⁹¹ with witnesses providing further confirmation of participants' advanced ages.¹⁹⁹² Some participants who claimed to be minors were, in fact, as old as 23 at the time of the programme.¹⁹⁹³ Identifying documents indicating ages younger than 15 years old for participants which has been submitted into evidence have since been demonstrated to be falsified or fabricated.¹⁹⁹⁴ Evidence also shows that some individuals listed were never part of any group prior to their inclusion in the programme.¹⁹⁹⁵

571. Furthermore, family members of ESF employees have been included in this list as they sought to benefit from the program without meeting the requirements.¹⁹⁹⁶ Three individuals who appear on the list were also reported by D29-6035 to have joined the program because they were members of Mr. Yekatom's family in-law and he wanted them to benefit from the program.¹⁹⁹⁷ These findings point to significant flaws in the compilation process for the First ESF List, highlighting a lack of verification measures that allowed individuals to misrepresent their ages and other eligibility factors, with the complicity of ESF employees.

572. The OTP's case lacks coherence on this evidence, as it relies on the First ESF List, even though its content is contradicted by its own witnesses who claim to have participated in the program.¹⁹⁹⁸ The Second ESF List which was also provided [REDACTED] should likewise not be relied upon by the Chamber.¹⁹⁹⁹

573. Although P-1974 [REDACTED] during the demobilisation program, [REDACTED], which raises concerns about the oversight and accuracy of the information it contains.²⁰⁰⁰ P-2018 testified that [REDACTED] verification forms and interviews with the participants themselves.²⁰⁰¹ However, this process appears to have resulted in the compilation of false data, as participants frequently provided false and conflicting information during interviews.²⁰⁰²

¹⁹⁹⁰ P-1974: T-227, p. 86, lines 16-26; T-228, pp. 13-14; see also P-2475: T-130, p. 72, lines 13-20; P-2476: T-214, p. 8, lines 8-23.

¹⁹⁹¹ [REDACTED].

¹⁹⁹² [REDACTED].

¹⁹⁹³ [REDACTED].

¹⁹⁹⁴ [REDACTED].

¹⁹⁹⁵ [REDACTED].

¹⁹⁹⁶ [REDACTED].

¹⁹⁹⁷ [REDACTED].

¹⁹⁹⁸ [REDACTED].

¹⁹⁹⁹ [CAR-OTP-2115-0369-R05](#).

²⁰⁰⁰ P-1974: T-228, p. 15, line 16.

²⁰⁰¹ P-2018: T-223, p. 20, lines 17-27, p. 21, lines 3-6; T-224, p. 72, lines 22-28, p. 74, line 18, p. 75, lines 1-8.

²⁰⁰² P-2018: T-224, p. 85, lines 9-28; P-1974: T-228, p. 23, lines 4-15.

574. The Second ESF List presents issues similar to those found in the First ESF List, particularly with respect to inaccuracies in participants' ages²⁰⁰³ and their prior affiliations to any group.²⁰⁰⁴ For instance, one individual listed testified on the fact that he never participated in any demobilisation programme²⁰⁰⁵ and was born on 28 August 1995, making him 19 years old at the time of the programme.²⁰⁰⁶ These repeated issues of false and contradictory information in both lists significantly undermine their reliability.

575. Comparison of these lists also reveals major discrepancies: several children appear on both lists but with different verification dates, locations, ages, and school or group history information.²⁰⁰⁷ P-2018 [REDACTED] inconsistencies [REDACTED] to the participants themselves, yet these discrepancies severely undermine the reliability of both lists as records of participant information or eligibility for the program.²⁰⁰⁸

576. The formatting of the Second ESF List further undermines its reliability. Despite the over-writable nature of Excel files, the OTP omitted to register the original metadata of the document, including when the file was last saved, or last modified, and by whom, which would have been of critical importance in assessing the reliability of this document.²⁰⁰⁹ In addition, the birth years displayed in the Excel format were derived from a formula that subtracted each individual's reported age from the year 2015 to calculate a birth year, despite the list being created in 2014.²⁰¹⁰ When questioned on this point, [REDACTED].²⁰¹¹

577. The evidence also indicates that some of the information in the Second ESF List is fabricated as certain individuals attempted to take advantage of the program. Specifically, individuals on the list attended a VPRS meeting with [REDACTED] years later where he instructed them to create a false narrative claiming they were members of 'anti-balaka' groups.²⁰¹² Additionally, some participants were included on the list not because they met the eligibility criteria but due to their connections to local figures, such as 'chef de quartiers' (neighborhood chiefs),²⁰¹³ or to ESF employees.²⁰¹⁴

²⁰⁰³ [REDACTED].

²⁰⁰⁴ [REDACTED].

²⁰⁰⁵ [REDACTED].

²⁰⁰⁶ D29-6036: T-259, p. 5, line 14.

²⁰⁰⁷ [CAR-D29-0014-0088](#).

²⁰⁰⁸ P-2018: T-224, p. 76, line 11 to p. 83, line 5.

²⁰⁰⁹ [CAR-OTP-2130-3274-R01](#), see also submissions made on this item in ICC-01/14-01/18-2611-Conf-AnxA, p. 88, item #9.

²⁰¹⁰ See an illustration of the formula in Defence's submissions therein: ICC-01/14-01/18-1852-Conf, para. 31.

²⁰¹¹ [REDACTED].

²⁰¹² [REDACTED].

²⁰¹³ [REDACTED].

²⁰¹⁴ [REDACTED].

iii) Live witnesses lied about their experience in the movement

578. The fraudulent nature of the ESF demobilisation program is further illustrated by the false testimony of P-2475 and P-2476.²⁰¹⁵ P-2476's account on his alleged joining of the RFACPP in Mbaiki is completely unreliable, his testimony contains major incoherences which leads to the conclusion that P-2476 was never part of the RFACPP.²⁰¹⁶

iv) Benefits for the community

579. This was a win-win situation: the ESF leaders needed to meet the criteria, including numbers, set by the UNICEF to receive funds;²⁰¹⁷ in return, members of the RFACPP including Mr. Yekatom agreed to provide false participants to the project. ESF also launched a call for participation and informed the authorities of the benefits that it could offer to the population.²⁰¹⁸ Witnesses in the case explained that NGO projects are inherently appealing to vulnerable populations and the 2014 ESF program was an opportunity for the local communities.²⁰¹⁹ Moreover, there was a degree of tolerance or agreements between parties to include as many beneficiaries as possible.²⁰²⁰ A confusion with the DDR program also leading to expectations of financial compensation incited people in need to register.²⁰²¹ In fact, the ESF project benefited different categories: the participants,²⁰²² the ESF leaders and staff and the foster families.²⁰²³

580. Mr. Yekatom was aware of the fraudulent nature of the demobilisation program; this is the reason why members of his family participated in the training. He also wanted the community to benefit

²⁰¹⁵ For P-2475, see Section II.C.2.a).

²⁰¹⁶ For example: while he stated during his screening that he spent two months in the RFACPP, he reduced it to few weeks during his examination by the OTP and finally to one week during cross examination (P-2476: T-214, p. 50, lines 18-23: [REDACTED]). P-2476 stated that he joined the RFACPP before the evacuation of the Muslim population and left after [REDACTED] (P-2476: [CAR-OTP-2127-0155-R05](#), para. 33) while during his testimony he explains that he was [REDACTED] (P-2476: T-214, p. 43, line 20 to p. 44, line 11). P-2476 did not initially recognize [REDACTED] (P-2476: T-214, p. 36, lines 18-23; P-2476: T-214, p. 59, line 28 to p. 62, line 27). See also [CAR-OTP-2126-0377-R01](#) (ICC-01/14/01/18-2611-Conf-AnxA, p. 87, #8).

²⁰¹⁷ P-2082: T-218, p. 64, lines 17-22; D29-5013: T-285, p. 69, line 19 to p. 70, line 2; [CAR-D29-0002-0326](#) p. 0328; P-0876: T-087, p. 16, line 20 to p. 27, line 26.

²⁰¹⁸ D29-6013: [CAR-D29-0009-0324-R01](#), paras. 26-27; P-2018: T-224, p. 98, line 21 to p. 99, line 1; see also P-2084: T-235, p. 17, line 24 to p. 19, line 7.

²⁰¹⁹ P-1974: T-228, p. 26, lines 17-23; P-2082: T-218, p. 40, line 24 to p. 41, line 6; P-0808: T-069, p. 72, lines 1-6; P-2018: T-224, p. 92, lines 21-23; D29-6037: [CAR-D29-0009-0459-R01](#), paras. 20, 22; D29-6013: [CAR-D29-0009-0324-R01](#), para. 26; see also P-2475: T-131, p. 21, lines 16-22, p. 45, lines 9-15.

²⁰²⁰ P-2082: T-218, p. 27, lines 15-20; P-1813: T-181, p. 44, line 26 to p. 45, line 5, p. 49, lines 12-18.

²⁰²¹ [CAR-OTP-2068-0558](#), p. 0566; P-2018: T-226, p. 31, lines 1-18; P-1974: T-229, p. 18, line 25 to p. 19, line 4.

²⁰²² P-2018: T-222, p. 51, lines 9-16; See also P-2018: T-224, p. 90, line 22 to p. 91, line 14; T-225, p. 41, line 20-23; P-2084: [CAR-OTP-2094-0968-R02](#), para. 90; P-1974: T-229, p. 47, lines 18-22; D29-6037: [CAR-D29-0009-0459-R01](#), paras. 24-31; D29-6013: [CAR-D29-0009-0324-R01](#), para. 27; D29-6018: [CAR-D29-0009-0396-R01](#), para. 25; P-2476: [CAR-OTP-2114-0149-R05](#), para. 61.

²⁰²³ P-1974: T-228, p. 61, lines 8-16; D29-6013: [CAR-D29-0009-0324-R01](#), para. 30.

from the demobilisation process.²⁰²⁴ However, his agreement was not fully informed.²⁰²⁵ [REDACTED] explains that the number provided of 153 children was an estimation and Mr. Yekatom did not have knowledge of the identity of those children as the list was never shared with him.²⁰²⁶ This was confirmed by P-2082 who explained that [REDACTED].²⁰²⁷ In addition, the document ‘Décharge’ that was signed with the estimated number of children does not refer to any list nor mentions any age of the alleged identified children.²⁰²⁸

V. LEGAL CHARACTERISATION OF FACTS

A. Contextual elements for CAH are not met

581. The OTP’s case centres on an alleged common purpose and organisational policy which overlap. Given this shared identity, and in order to establish the contextual elements, the OTP must, *inter alia*, prove that Mr. Yekatom’s conduct is pursuant to or in furtherance of the organisational policy to commit an attack against the Muslim civilian population in order to demonstrate the existence of the organisational policy and the nexus requirement to the attack itself.²⁰²⁹ However, and for the reasons set out in more detail below, Mr. Yekatom’s conduct during the conflict cannot be said to be pursuant to or in furtherance of any policy to attack the Muslim civilian population.

582. Indeed, none of the acts with which Mr. Yekatom is charged with can therefore be said to be a part of such an attack.²⁰³⁰ The organisational policy as charged is inextricably linked to the actions of Mr. Yekatom and ‘his alleged group’, such that a failure to prove the latter are criminal actions necessarily leads to the contextual elements of CAH not being met.

583. By extension, and in parallel to the submissions concerning the lack of Mr. Yekatom’s intent to commit the charged crimes, the OTP has also failed to establish that Mr. Yekatom knew or intended any conduct to be part of an attack directed against a civilian population.²⁰³¹

B. Material elements of the charged crimes have not been established

1. BOEING/CATTIN

a) Count 1: Article 8(2)(e)(i) - Directing attack against civilian population

584. In Count 1, Mr. Yekatom is charged with directing an attack against a civilian population,

²⁰²⁴ P-2018: T-222, p. 35, line 25 to p. 36, line 3, p. 39, lines 16-25; T-226, p. 32, lines 3-12.

²⁰²⁵ P-2082: T-219, p. 25, lines 19-22.

²⁰²⁶ [REDACTED] on the names and information collected by ESF in regard to each participant which was not communicated to Mr. Yekatom. P-2082: T-219, p. 49, lines 1-4, p. 51, lines 17-22, p. 77, lines 16-22.

²⁰²⁷ P-2082: [CAR-OTP-2109-0452-R02](#), paras. 37, 60; T-217, p. 14, line 26 to p. 15, line 12, p. 27, line 15 to p. 28, line 5; T-218, p. 74, lines 17-25; T-219, p. 20, line 21 to p. 21, line 2.

²⁰²⁸ P-1974: [CAR-OTP-2128-1373](#).

²⁰²⁹ ICC-02/04-01/15-1762-Red, paras. 2674-2678.

²⁰³⁰ ICC-01/05-01/08-424, paras. 81-86.

²⁰³¹ ICC-01/12-01/18-2594-Red, para. 1117.

pursuant to Article 8(e)(i), in Bangui, including Cattin and the Boeing Market, starting on 5 December 2013 on the basis of Counts 2 to 6 and 8.

- i) OTP has failed to establish that Mr. Yekatom directed an attack whose object was the civilian population

585. In order to discharge its burden in relation to Count 1, the OTP must establish that the primary object of the alleged attack on Boeing and Cattin was the civilian population as a whole or individual civilians not taking direct part in hostilities.²⁰³² The OTP case falls well short of its statutory burden.

586. The military objective and character of the 5th December Operation is reflected in numerous ways. First, the RFACPP and Mr. Yekatom mobilised as FACA,²⁰³³ in response to a request from a military superior Cptn. Ngremengou²⁰³⁴ and in strict compliance with the military oath.²⁰³⁵ Second, the evidence has established the RFACPP was founded on the objective to target the Seleka forces who had committed mass atrocities against the CAR civilian population, as depicted in the contemporaneous statements of Mr. Yekatom in the immediate aftermath of the 5th December Operation.²⁰³⁶ Significantly, the OTP's case with respect to the RFACPP's alleged threat to 'kill all the Muslims' did not materialise,²⁰³⁷ and there is no reliable evidence which explicitly demonstrates that the movement intentionally targeted or harmed Muslims during the Operation.²⁰³⁸

587. Third, the evidence also establishes that the RFACPP did in fact target the bases of notorious Seleka Chiefs based in, and along the road to Cattin,²⁰³⁹ and that counter-attacks were launched by the Seleka in the same vicinity.²⁰⁴⁰ By extension, and in relation to Counts 2 and 3 set out below, the evidence raises reasonable doubt that the alleged victims were armed Seleka combatants and/or civilians actively participating in the hostilities such that they did not benefit from the protection under Article 8(2)(e)(i) and were legitimate military targets.²⁰⁴¹

588. Even if one were to consider, *in arguendo*, that the alleged victim(s) for the purposes of Count 1 maintained their protected civilian status, the second element in Article 8(2)(e)(i) is not met where

²⁰³² ICC-01/04-01/07-3436-tENG, paras. 797-799, 802; ICC-01/04-02/06-2359, paras. 916-917.

²⁰³³ See Section IV.B.1.

²⁰³⁴ See Section IV.B.1.

²⁰³⁵ See Section IV.A.

²⁰³⁶ See Section IV.A.

²⁰³⁷ See Section IV.B.1.

²⁰³⁸ See Section IV.B.1.

²⁰³⁹ See Section IV.B.1.

²⁰⁴⁰ See Section IV.B.1.

²⁰⁴¹ See Section IV.B.1; ICC-01/04-02/06-2359, para. 883; IT-95-16-T, paras. 522-523.

the attack is directed against a military objective and civilians are incidentally affected.²⁰⁴² In this regard, indiscriminate attacks with the specific aim of targeting a military objective - in violation of the principle of proportionality do not automatically constitute an attack against the civilian population.²⁰⁴³ This can be seen most clearly by comparing Article 8(2)(b) and Article 8(2)(e) of the Statute – noting that Article 8(2)(b)(i) is the IAC equivalent to Article 8(2)(e)(i) – but this is a separate crime from excessive collateral damage under Article 8(2)(b)(iv) (for which there is no corresponding NIAC provision). In other words, there is a legislative intent to emphasise the target or object of the attack and not the actual outcome or damage.²⁰⁴⁴ In this respect, the OTP's concession that the RFACPP was engaged in a military operation and had targeted Seleka bases undermines its case in relation to the second material element.²⁰⁴⁵

589. Nor can it be argued that the nature of the attack was so indiscriminate so as to establish or allow for the inference that the actual object of the attack was the civilian population and not a military objective.²⁰⁴⁶ An assessment of the means and methods used during the attack,²⁰⁴⁷ establishes that this was a limited military attack. The RFACPP restricted the geographical scope of the military target to Seleka bases in Boeing and Cattin.²⁰⁴⁸ A limited number of trained FACA were involved in the Operation, each of whom would have had IHL training,²⁰⁴⁹ and which the evidence establishes, observed the principle of distinction during the Operation.²⁰⁵⁰ There is also no reliable evidence that the RFACPP used weapons with inherently indiscriminate effects such as to recharacterise the intended target of the attack. Indeed, the evidence overwhelmingly establishes that the RFACPP had limited ammunition and weapons as a result of the Seleka forces seizing FACA barracks and ammunition depots.²⁰⁵¹ This is also demonstrated by the fact that: (i) the RFACPP's involvement in the 5th December Operation was premised in part, upon the expectation that further ammunition would be retrieved from international forces,²⁰⁵² and (ii) the RFACPP's retreat into the bush on 5 December 2013 was a result of the limited weapons available.²⁰⁵³

590. Finally, it is for the OTP to establish, that in the circumstances at the time, a reasonable person could not have believed that the individual or group s/he attacked was a fighter or directly

²⁰⁴² ICC-01/04-01/07-3436-tENG, para. 802; ICC-01/04-01/10-465-Red, para. 142.

²⁰⁴³ ICC-01/04-01/07-3436-tENG, para. 802.

²⁰⁴⁴ La Haye (2001), p. 215.; Dörmann (2022), p. 405; ICC-01/04-02/06-2359, para. 904.

²⁰⁴⁵ ICC-01/11-01/14-723-Conf, para. 394.

²⁰⁴⁶ IT-98-29-T, para. 60.

²⁰⁴⁷ ICC-01/04-01/07-3436-tENG, paras. 801, 807; ICC-01/04-02/06-2359, para. 921.

²⁰⁴⁸ See Section IV.B.1.

²⁰⁴⁹ See Section IV.A.

²⁰⁵⁰ See Section IV.B.1.

²⁰⁵¹ See Section IV.B.1.

²⁰⁵² See Section IV.B.1.

²⁰⁵³ See Section IV.B.1.

participating in hostilities.²⁰⁵⁴ The evidence demonstrates that the Seleka forces: (i) were generally embedded in civilian residences and places of businesses, and not military barracks across Bangui,²⁰⁵⁵ and (ii) had trained, recruited and issued weapons to Muslim traders in Bangui.²⁰⁵⁶ Moreover, the evidence establishes that the Seleka forces had anticipated and/or knew of the 5th December Operation ahead of time.²⁰⁵⁷ For example, in relation to Boeing Market, the evidence inferred that the Traders would have been prepared or at least on notice in the early hours of the 5 December 2013 in order to attack the RFACPP.²⁰⁵⁸ Similarly, the evidence demonstrates that Seleka forces immediately mobilised and advanced towards Boeing and/or engaged in counter-attacks in and around Cattin. Accordingly, there is sufficient evidence that demonstrates active combat in Boeing and Cattin – both of which are relatively small localities – whilst the RFACPP was present. In such circumstances, the OTP has not established that a reasonable person could not have believed that a target was not a military target or a person actively participating in hostilities.

b) Counts 2/3: Article 7(1)(a)/Article 8(2)(c)(i) - Murder as CAH/WC

591. In Counts 2 and 3, Mr. Yekatom is charged with murder, pursuant to Article 8(2)(c)(i) and Article 7(1)(a), in relation to the alleged killing of: (i) between five and thirteen persons, including Hassan Mahamat, at the Boeing Market, (ii) four Muslims in Cattin, and (iii) Nina Pascal at the Boeing Market. The killings are all alleged to have taken place in the context of the 5th December Operation.

i) OTP has not established that the alleged victims were killed

592. In order to establish the first material element of murder as a CAH or a WC, the OTP must prove beyond reasonable doubt, that the victim is dead and that the death occurred as a result of the perpetrator's act or omission.²⁰⁵⁹ Whilst a victim's death may be proven by circumstantial evidence, it must be the only reasonable conclusion that can be drawn.²⁰⁶⁰

593. Having dropped P-2125, the OTP has evidently failed to establish the death of Nina Pascal.²⁰⁶¹ Similarly, having only led evidence in relation to the alleged killing on the Dameca Road and the killing of a moto-driver in Cattin, the OTP has also not established that a total of four Muslims

²⁰⁵⁴ ICC-01/04-02/06-2359, para. 921.

²⁰⁵⁵ See Section IV.B.1.

²⁰⁵⁶ See Section IV.B.1.

²⁰⁵⁷ See Section IV.B.1.

²⁰⁵⁸ See Section IV.B.1.

²⁰⁵⁹ ICC-01/04-01/07-3436-tENG, para. 767, 786; ICC-01/05-01/08-3343, para. 87; ICC-02/04-01/15-1762-Red, para. 2696.

²⁰⁶⁰ ICC-01/04-01/07-3436-tENG, para. 768; ICC-01/04-02/06-2359, para. 862.

²⁰⁶¹ See Section IV.B.1.

were killed in Cattin.²⁰⁶² In this regard, with respect to the alleged killing on Dameca Road, the evidence does not establish that the unidentified man seen by P-1528 [REDACTED] actually died from his injuries noting that P-1528 was unable to identify the man or describe the extent of his injuries other than to attest that he saw some blood on his face and ‘a little bit’ under his body. In this instance, the importance of the identity of the unidentified man observed by P-1528 – at least of where he came from - is elevated by virtue of P-1528’s attempts to link the incident that he observed with the alleged killing of ‘someone from Plateau’ – an undated account apparently provided to P-1528 from unknown sources.²⁰⁶³ No other accounts or evidence was made available to corroborate any aspect of P-1528’s entirely circumstantial and weak evidence. As such, the OTP has not established that the death of the unidentified man on Dameca Road is the only reasonable conclusion.

- ii) OTP has not established that the deaths were as a result of the acts or omissions of Mr. Yekatom

594. Even assuming, *arguendo*, that the victim on Dameca Road was killed, it is for the OTP to establish beyond a reasonable doubt that the act which is attributable to the accused would, in the ordinary course of events, lead to the death of the victim.²⁰⁶⁴ In this instance however, the OTP has not established any causal link let alone one that meets the requisite standard.

595. P-1528 was unable to establish that: (i) the sounds of pursuit that he heard were linked to the alleged killing, (ii) that the four ‘anti-balaka’ men observed by P-1528 were involved in the pursuit, (iii) that the four ‘anti-balaka’ men killed the unidentified victim, or (iv) that the four ‘anti-balaka’ men were RFACPP members.²⁰⁶⁵ In particular and noting the use of the nebulous ‘anti-balaka’ term by the CAR population and the OTP, the evidence establishes that there were a number of armed groups active in Boeing/Cattin on the morning of 5 December 2013 including local civilian defence groups. In this regard, P-1528’s account that the four ‘anti-balaka’ men would have been wearing red headbands, *gris gris* and carrying machetes raises a reasonable doubt that the men observed by the witness were RFACPP members given that members on the 5th December Operation, RFACPP members.²⁰⁶⁶

596. Moreover, Cattin was a scene of active combat during the duration of the alleged killing, which included disproportionate Seleka counter-attacks and reprisals against the armed groups, with

²⁰⁶² See Section IV.B.1.

²⁰⁶³ See Section IV.B.1.

²⁰⁶⁴ IT-98-30/1-A, para. 689.

²⁰⁶⁵ See Section IV.B.1.

²⁰⁶⁶ See Section IV.B.1.

evidence showing that the Seleka forces would ‘dump’ bodies by the side of the road.²⁰⁶⁷ Given the abstract and protracted timeline proffered by P-1528, the insufficient detail surrounding the circumstances of the alleged killing on Dameca road and the lack of identity of the victim, the OTP has also not proven beyond reasonable doubt that the perpetrators were even ‘anti-balaka’. The same considerations equally apply in relation to the death of the moto-driver in Cattin. There is currently no reliable evidence as to the identity or circumstances which would have led to this death.²⁰⁶⁸

597. Whilst the OTP does not always have to identify the perpetrator, it must do so where it is a material fact.²⁰⁶⁹ This is the case here – Counts 2 and 3 are premised on there being a causal link between the conduct of Mr. Yekatom (or those allegedly attributable to him) which led to the alleged death of the victims. In the absence of this link, the OTP has failed to meet this material element for the purposes of both Article 7(1)(a)/Article 8(2)(c)(i).

iii) OTP has failed to establish that the alleged victims were civilians

598. Additionally, in relation to Article 8(2)(c)(i), the OTP must also prove that the victim held civilian status when killed.²⁰⁷⁰ The protection under Article 8(2)(c)(i) is lost where the victim was actively or directly participating in hostilities.²⁰⁷¹ Examples of direct or active participation includes bearing, using or taking up arms, taking part in military or hostile acts, activities, conduct or operations, armed fighting or combat, participating in attacks against enemy personnel, property or equipment, transmitting military information for the immediate use of a belligerent, transporting weapons in proximity to combat operations and serving as guards, intelligence agents, lookouts, or observers on behalf of military forces.²⁰⁷²

599. The evidence has established that Traders at Boeing Market were armed and actively participating in hostilities.²⁰⁷³ Moreover, they were not merely civilians who had picked up arms in self-defence,²⁰⁷⁴ but had joined the Seleka upon their arrival in Bangui in March 2013.²⁰⁷⁵ Indeed, they were fully embedded within the enemy force by December 2013, having received military titles (noting Hassan Mahamat was appointed a colonel), uniforms and weapons, all

²⁰⁶⁷ See Section IV.B.1.

²⁰⁶⁸ See Section IV.B.1.

²⁰⁶⁹ Mettraux (2020), fn. 87.

²⁰⁷⁰ ICC-01/04-01/07-3436-tENG, para. 786, ICC-01/05-01/08-3343, para. 92; ICC-02/04-01/15-1762-Red, para. 2697.

²⁰⁷¹ ICC-01/04-01/07-3436-tENG, par. 790; ICC-01/05-01/08-3343, para. 94; ICC-02/04-01/15-1762-Red, para. 2697. The terms ‘active participation’ and ‘direct participation’ are considered to be interchangeable see ICC-01/04-01/07-717, fn. 367; ICTR-96-4-T, para. 629; IT-94-1-T, para. 615.

²⁰⁷² ICC-01/04-01/10-465-Red, para. 148; IT-01-42-A, para. 177; IT-94-1-T, para. 640.

²⁰⁷³ See Section IV.B.1.d).

²⁰⁷⁴ ICC-02/04-01/15-1762-Red, para. 2697.

²⁰⁷⁵ See Section IV.B.1.

issued by the Seleka and more pertinently, took part in Seleka operations.²⁰⁷⁶ Traders had also anticipated, and even on P-1339's disputed account, been combat-prepared for the broader 5th December Operation.²⁰⁷⁷

600. Equally, in relation to the alleged killing on Dameca road and the death of the moto-driver in Cattin, civilian status can no longer be presumed given the context in which the alleged killings took place. Even with a presumption of civilian status, the OTP maintains the burden to establish the status of the victim as a civilian taking no active part in the hostilities.²⁰⁷⁸ This onus is particularly heightened when considering that: (i) there was active conflict in Boeing and Cattin, (ii) several armed groups were present in the area, and (iii) the local civilian population perpetrated crimes against the Muslim population in the same vicinity on the same day. Absent any questions from the OTP to establish, *inter alia*, the location of the murders, whether the victims were carrying weapons, and the clothing, age, and gender of the victims,²⁰⁷⁹ the OTP has failed to prove beyond a reasonable doubt that the alleged victims in Cattin held protected status.²⁰⁸⁰

c) Count 4: Article 7(1)(d) – Forcible transfer and deportation

601. In Count 4, Mr. Yekatom is charged with the forcible transfer and deportation, pursuant to Article 7(1)(d), in relation to the alleged displacement of Muslim persons residing in Cattin and Boeing to PK5, other parts of CAR and neighbouring countries, starting from 5 December 2013 in the context of the 5th December Operation.

- i) OTP has not established that the forced or coerced nature of the movement is attributable to Mr. Yekatom

602. To establish the first material element, it must be established that the act(s) performed by the perpetrator amount to expulsion or other coercive act which had the effect of forcibly displacing the victim.²⁰⁸¹ Absent such a link between the conduct and the resulting effect of forcing the victim to leave the area to another State or location, the Chamber may not establish that deportation or forcible transfer of population pursuant to Article 7(2) (d) of the Statute has been committed.²⁰⁸²

603. The evidence establishes that the Muslim population would have dislocated from Boeing/Cattin

²⁰⁷⁶ See Section IV.B.1; see also, ICRC IG on DPH, pp. 33 and 35 (regarding determination of membership of an armed group).

²⁰⁷⁷ See Section IV.B.1.

²⁰⁷⁸ ICC-01/05-01/08-3343, para. 94.

²⁰⁷⁹ ICC-01/05-01/08-3343, para. 94.

²⁰⁸⁰ See Section IV.B.1.

²⁰⁸¹ ICC-01/09-01/11-373, paras. 244-245; ICC-01/04-02/06-2359, para. 1047.

²⁰⁸² ICC-01/09-01/11-373, para. 245.

for several reasons which are unrelated to the conduct of Mr. Yekatom or the RFACPP.²⁰⁸³ First, several armed groups were active in Boeing and Cattin on 5 December 2013, following which [REDACTED].²⁰⁸⁴ These groups were distinct from, and not a part of, the RFACPP.²⁰⁸⁵ Second, following the 5th December Operation, Seleka forces retaliated in an indiscriminate manner in Cattin and the surrounding areas, causing fear of escalation of violence held amongst the local population including the Muslims.²⁰⁸⁶ Third, the local civilian population created self-defence groups and/or mob units, committing violence against the Muslim population in retaliation for atrocities committed by Seleka forces and/or as an opportunistic moment to loot.²⁰⁸⁷ Fourth, false rumours of imminent attacks by unidentified 'anti-balaka' groups escalated across Cattin, intensifying a climate of fear and paranoia among the Muslim population, who feared potential 'cleansing' from the surrounding area.²⁰⁸⁸

604. Whilst these acts may have contributed to the coercive environment in Boeing and Cattin – either individually or collectively – there is no evidence that any of these acts were attributable to the RFACPP.²⁰⁸⁹ Indeed, the OTP's case that Mr. Yekatom or RFACPP members were seen publicly threatening Muslims in Cattin was not established,²⁰⁹⁰ and the OTP did not lead any evidence which would depict Mr. Yekatom undertaking acts which threaten or intimidate the Muslim population in a manner calculated to force the population to leave Boeing or Cattin.²⁰⁹¹

ii) OTP has not established that RFACPP military operations were unlawful

605. The incidental displacement as a result of an entirely lawful attack, or collateral consequences of a lawful attack does not amount to forcible transfer or displacement for the purposes of Article 7(1)(d).²⁰⁹² In this regard, cross-reference is made to the fact that the RFACPP undertook a lawful operation on 5 December 2013, which targeted the Seleka and its bases as military objectives.²⁰⁹³

606. Moreover, the manner in which the Operation was conducted was in full respect of the principle of distinction and proportionality.²⁰⁹⁴ The RFACPP did not indiscriminately launch violent attacks during the Operation and nor did it use indiscriminate weapons by which the local population

²⁰⁸³ If individuals left for reasons unrelated to their actions, the conduct does not in principle constitute deportation or forcible transfer see IT-06-90-T, para. 1762.

²⁰⁸⁴ See Section IV.B.1.

²⁰⁸⁵ See Section IV.B.1.

²⁰⁸⁶ See Section IV.B.1.

²⁰⁸⁷ See Section IV.B.1, IV.A. and III.

²⁰⁸⁸ See Section IV.B.1.

²⁰⁸⁹ IT-05-87/1-A, para. 709.

²⁰⁹⁰ *Contra* ICC-01/11-01/14-723-Conf, para. 401.

²⁰⁹¹ ICC-01/04-02/06-2359, para. 1056; IT-95-9-T, paras. 125-126.

²⁰⁹² ICC-01/04-02/06-2359, para. 1056.

²⁰⁹³ See above.

²⁰⁹⁴ See above; and Section IV.

would have been coerced to leave the area.²⁰⁹⁵ In particular, there is no evidence that Mr. Yekatom or the RFACPP undertook acts which were intended to arouse fear in the midst of the military operation.²⁰⁹⁶

607. Further, the military operations of the RFACPP continued at Yamwara, noting that the Seleka forces still operated as an enemy force in the area and continued to launch attacks against the base. Checkpoints established around the base were utilised as a security measure,²⁰⁹⁷ in order to identify armed Seleka forces and prevent infiltration. RFACPP members continued to adhere to the principle of distinction whilst manning the checkpoints, allowing the local population – including Muslims – to pass following security checks.²⁰⁹⁸

608. Nor has the OTP established that Mr. Yekatom took advantage of a coercive environment.²⁰⁹⁹ Indeed, contemporaneous speeches and acts of Mr. Yekatom and RFACPP members,²¹⁰⁰ including in aftermath of the 5th December Operation, establish that the movement had not harmed the Muslim population during the operation and moreover, that it sought to protect the Muslim population.

d) Count 5: Article 8(2)(e)(viii) – Displacement

609. In Count 5, Mr. Yekatom is charged with ordering the displacement of a civilian population, pursuant to Article 8(2)(e)(viii), in relation to the alleged displacement of Muslims persons residing in Cattin and Boeing to PK5, other parts of CAR and neighbouring countries, starting from 5 December 2013 in the context of the 5th December Operation.

- i) OTP has not established that Mr. Yekatom issued an order for the displacement of the civilian population

610. The first material element under Article 8(2)(e)(viii) requires that a specific order for displacement of the civilian population was issued.²¹⁰¹ This is consistent with the plain language of the EoC as well as the drafting history of the provision.

²⁰⁹⁵ See Section IV.B.1; IT-05-87/1-A, paras. 1651 *et seq.*

²⁰⁹⁶ IT-95-9-T, para. 123.

²⁰⁹⁷ See Section IV.B.2.

²⁰⁹⁸ See Section IV.B.1 and 2 ; IV.A.

²⁰⁹⁹ See also IT-97-24-A, para. 279.

²¹⁰⁰ IT-95-5/18-T, paras. 2474; IT-08-91-T, paras. 195 *et seq.*

²¹⁰¹ Geib/Zimmerman (2022), 964, 966 '[t]he use of the term 'ordering' makes it clear that only acts which are directly aimed at removing the respective civilian population from a given area are prohibited. Thus other acts which do not possess such a character, but which lead to the same result, such as the intentional starvation of the civilian population in order to force them to leave a certain area, are not prohibited by Article 8(2)(e)(viii). This is confirmed by the fact that an explicit prohibition to that effect had been part of the original proposal, submitted by New Zealand and Switzerland, which was not retained (emphasis added)(footnotes omitted)'.

611. In order to give effect to the first sentence in Article 17(1) AP II,²¹⁰² which is the legal basis of the war crime prohibiting the ordering of displacement,²¹⁰³ the drafters of the EoC relied on the text of Article 8(2)(a)(vii) (war crime of unlawful deportation and transfer) and Article 8(2)(b)(xii) (war crime of denying quarter) ‘in order to reflect the terms ‘to declare’ and ‘to order’ in a coherent manner in the EoC’.²¹⁰⁴ In other words, there was a deliberate approach in the construction of the first material element and the inclusion of the term ‘ordered the displacement’ for the purposes of the Rome Statute. In this respect, the objective of Article 8(2)(e)(viii) is to implicate the individual giving the order of displacement and ‘not someone who simply carries out the displacement’.²¹⁰⁵

612. In this regard, whilst Trial Chamber VI in *Ntaganda* interpreted this element as requiring an order to ‘(i) displace a civilian population; or (ii) perform an act or omission as a result of which such a displacement would occur’,²¹⁰⁶ the latter application took inspiration from the jurisprudence concerning ‘ordering’ as a mode of liability.²¹⁰⁷ In contrast to *Ntaganda*, Mr. Yekatom is charged with ‘ordering’ as a mode of liability under article 25(3)(b) in relation to Article 8(2)(e)(viii) which effectively creates a Russian doll effect such that the types of orders as envisaged within part (ii) would be rendered meaningless. As such, the Defence asserts for the purposes of the charges as framed against Mr. Yekatom, it is only the orders in part (i) of the *Ntaganda* interpretation – that is, orders to displace a civilian population – which is the correct application of the first material element under Article 8(2)(e)(viii).

613. With this in mind, there is no evidence that would establish that Mr. Yekatom, or those whose acts are allegedly attributable to him,²¹⁰⁸ issued any order to displace the civilian population in relation to the 5th December Operation.

- ii) OTP has not established that the order was not justified by the security of the civilians involved or by military necessity

²¹⁰² Article 17(1) AP II: the displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand [...]. See Geib/Zimmerman (2022), 964.

²¹⁰³ Article 17(1) AP II is a derivative of Article 49(2) GC IV: Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand. Such evacuation may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.

²¹⁰⁴ Dorman (2003), p. 472.

²¹⁰⁵ Dorman (2003), p. 472.

²¹⁰⁶ ICC-01/04-02/06-2359, para. 1081.

²¹⁰⁷ ICC-01/04-02/06-2359, fn. 3033 with reference to ICC-01/04-01/12-1-Red, para. 63 (‘[t]aking note of the way ordering liability is analysed at the ad hoc tribunals, the Chamber considers that, to be responsible under article 25(3)(b) of the Statute it must be established that: (a) the person is in a position of authority, (b) the person instructs another person in any form to either: (i) commit a crime which in fact occurs or is attempted or (ii) perform an act or omission in the execution of which a crime is carried out [...]’ (emphasis added)(footnotes omitted).

²¹⁰⁸ See Section IV.B.1.

614. In the event that the Chamber considers that it is sufficient for the OTP to establish that Mr. Yekatom issued an order to perform an act or omission which resulted in displacement,²¹⁰⁹ the OTP must still establish that the execution of this order resulted in a crime, that the order had a direct effect on the commission of the crime, and that Mr. Yekatom was aware that the execution of his order would result in displacement in the ordinary course of events – i.e. the occurrence would be virtually certain. As set out below, the OTP’s case falls far short of establishing Mr. Yekatom’s alleged culpability under Article 25(3)(b).

615. Moreover, as provided in the second material element of Article 8(2)(e)(viii), the OTP must establish that the order was not justified by the security of the civilians involved or by military necessity.²¹¹⁰ As set out above, the military operations undertaken in relation to the 5th December were legitimate in that they were directed against military targets and complied with the principles of distinction and proportionality.²¹¹¹ The objective of the Operation also served to protect the civilian population from the continued atrocities committed by the Seleka forces.

e) Count 6: Article 8(2)(e)(iv) – Directing attack against religious building

616. In Count 6, Mr. Yekatom is charged with directing an attack against a religious building, pursuant to Article 8(2)(e)(iv), in relation to the alleged destruction of the Boeing Mosque by 20 December 2013 at the latest.

- i) The OTP has not established that Mr. Yekatom directed an attack against a religious building

617. Article 8(2)(e)(iv) requires that the perpetrator launched an attack against the protected object and that it was his/her intention to attack a building or place dedicated to one of the specific functions listed in Article 8(2)(e)(iv), and not just any object not constituting a military objective.²¹¹²

618. The OTP’s case in this respect did not come up to proof. The evidence as led at trial established that the Boeing Mosque was destroyed by the local civilian population. In this respect, whilst the Defence does not consider that the OTP has established that there was an ‘attack’ within the

²¹⁰⁹ See Section IV.B.1.

²¹¹⁰ The inclusion of ‘military necessity’ can be viewed as duplication of ‘unlawfulness’ as set out in the general introduction to the EoC see Dorman (2003), p. 473 (‘Element 3 is based on the statutory language, which is derived from Art. 17(1) first sentence AP II. Although one might argue that the element could be superfluous in light of paragraph 6 of the General Introduction to the EOC document relating to the concept of ‘unlawfulness’, the PrepCom decided to state that ‘[s]uch order was not justified by the security of the civilians involved or by military necessity’. This departure from the approach taken in other cases was justified by the fact that this requirement is explicitly mentioned in the Statute and should therefore be repeated’.

²¹¹¹ See above, *contra* ICC-01/04-02/06-2359, paras. 1085-1091.

²¹¹² ICC-01/04-02/06-2359, paras. 1136, 1147.

established framework of international law (Article 49(1) AP I) and for the purposes of the first material element in Article 8(2)(e)(iv),²¹¹³ its position is focused on the fact that the destruction of the mosque is not attributable to Mr. Yekatom.

619. In particular, the evidence of several direct eyewitness accounts – from OTP and Defence witnesses - establishes that the mosque was dismantled by the civilian population ‘little-by-little’, and that no part of it was destroyed by explosives or fuel.²¹¹⁴ Moreover, the eyewitnesses did not attest to the involvement of any FACA or indeed more specifically, any RFACPP member. The accounts are also corroborated by satellite imagery which did not depict the signs which would otherwise be expected in the sequence of events led by the OTP i.e. that the mosque was destroyed with a rocket launcher and set alight with petrol.²¹¹⁵

620. Having failed to establish that Mr. Yekatom or the RFACPP was involved in the destruction of the Boeing mosque, the OTP has failed to prove beyond reasonable doubt that Mr. Yekatom directed an attack which would have targeted the Boeing Mosque.

2. LAPO N’GOMAT

a) Counts 12/13: Article 7(1)(f) / 8(2)(c)(i)-4 - Torture as CAH/WC

621. In Counts 12 and 13, Mr. Yekatom is charged with torture as a CAH and WC, pursuant to Article 7(1)(f) / 8(2)(c)(i)-4, in relation to the alleged abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to Yamwara on or about 24 December 2013, where Lapo N’Gomat was allegedly subjected to severe physical and mental injury.

- i) OTP has not established that the alleged torture meets the nexus requirement for the purposes of Article 7(1)(f)

622. In order to discharge the material elements pursuant to Article 7(1)(f), the OTP must establish that the alleged torture of Lapo N’Gomat was conducted pursuant to or in furtherance of the alleged policy ‘which entailed the violent targeting of the Muslim population in western CAR who, based on their religious, national or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of, the Seleka’.²¹¹⁶

²¹¹³ In accordance with Article 49(1) AP I – which is applicable in NIACs – the term ‘attack’ means ‘acts of violence against the adversary, whether in offence or in defence’ and refers to ‘the use of armed force to carry out a military operation during the course of an armed conflict’ see e.g. ICC-01/04-02/06-2359, para. 916; ICC-02/04-01/15-1762-Red, para. 2758 *contra* ICC-01/12-01/15-171, paras. 15-16. The evidence in relation to Count 6 concerns the destruction of the Boeing Mosque by the local civilian population i.e. not an armed force or as part of any military operation and as such falls outside of the definition of attack for the purposes of EoC Article 8(2)(e)(iv) -1.

²¹¹⁴ See Section IV.B.1.f).

²¹¹⁵ See Section IV.B.1.f).

²¹¹⁶ ICC-01/14-01/18-723-Conf, para. 204.

623. Notwithstanding the fact that the OTP has failed to establish the existence of any such policy vis-à-vis Mr. Yekatom and the RFACPP, it has also failed to establish the requisite nexus requirement for the purposes of Counts 12 and 13.

624. In order for the nexus to be met, the evidence had to establish, beyond reasonable doubt, that the [REDACTED] was stopped and targeted on the basis that they were Muslim and that it was only on this religious or ethnic basis that the group would have been perceived as being responsible, complicit and/or supportive of the Seleka. This did not materialise.

625. First, the [REDACTED] was not targeted because they were Muslim. Indeed half the group were non-Muslim and nor were any of the group wearing any particular clothing which would have identified them as Muslims.²¹¹⁷

626. Second, the very same group had, just hours prior, passed through the same roadblock without incident. On both occasions, the [REDACTED] was subjected to routine security checks and in this regard was not 'targeted'.²¹¹⁸ Moreover, the group would have been stopped on or around 24 December 2013, i.e. in the midst of an active conflict against the Seleka and just weeks before Djotodia's resignation. The legitimacy and necessity of the security checks in and around Yamwara are further emphasised by the fact that Seleka forces continued to direct attacks against the base.²¹¹⁹

627. Third, the group was apprehended on the second occasion as a result of investigative acts that provided a reasonable basis to suspect the group as Seleka forces or Seleka informants. Indeed, the first time the group was stopped [REDACTED], the group was permitted to proceed following routine searches of the van.²¹²⁰ In contrast, during the second stop, the group was recognised as being part [REDACTED], the then [REDACTED], [REDACTED] enjoyed prominent status with Djotodia.²¹²¹ Following further searches, the group was found to possess suspicious items, including Seleka card(s) and a hidden SIM card.²¹²²

628. The apprehension of the group was therefore far removed from any alleged violent policy to target the Muslim population and was linked to the initial understanding that the [REDACTED] was integrated within enemy forces.²¹²³ It is on this basis that the nexus requirement has not been met so as to break the causal link between the ensuing charged conduct of torture and the targeting

²¹¹⁷ See Section IV.B.2.

²¹¹⁸ See Section IV.B.2.

²¹¹⁹ See Section IV.B.2.

²¹²⁰ See Section IV.B.2.

²¹²¹ See Section IV.B.2.

²¹²² See Section IV.B.2.

²¹²³ IT-95-13/1-A, para. 42.

of the [REDACTED].

- ii) OTP has not established the purposive requirement required for Article 8(2)(c)(i)-4

629. In order to establish Article 8(2)(c)(i)-4, the OTP must establish that the perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.²¹²⁴ However, the OTP has not presented or established, to the requisite standard, the specific purpose for which Lapo N’Gomat was allegedly tortured.

630. Indeed, it was P-1839’s evidence, [REDACTED] of the alleged acts of torture, that [REDACTED].²¹²⁵ The OTP did not establish with the witness precisely what was meant by this and did not seek to further probe [REDACTED].²¹²⁶ Despite the fact that P-1839 was provided with Rule 74 assurances, the OTP did not seek to clarify this ambiguity in real time.

631. Furthermore, the mere fact that P-1839’s [REDACTED]. In other words, P-1839 [REDACTED] which does not align with the special intent required for Article 8(2)(c)(i)-4. This is underscored by the fact that P-1839 had joined the RFACPP as a civilian member less than two weeks prior,²¹²⁷ and was not privy to discussions between military personnel.²¹²⁸

632. The OTP’s failure to test P-1839 is indicative of the fact that it does not have a clear case as to what it states was the purpose of Lapo N’Gomat’s torture. This is also reflected by its decision to charge the alleged beatings and threats against the remaining [REDACTED] as cruel treatment, pursuant to Article 8(2)(c)(i)-3, thereby seeking to circumvent the purpose requirement. In other words – and noting that the [REDACTED] was collectively arrested and taken to Yamwara – the OTP offers no cogent reason as to why it states that only the alleged torture of Lapo N’Gomat meets the purpose threshold under Count 13 noting that the threshold or degree of severity of the underlying acts are the same whether charged as cruel treatment or torture.²¹²⁹ In the absence of clarity – and noting that the purpose requirement is a material fact – the OTP was obliged to clear such an ambiguity with P-1839 [REDACTED] and question the witness as to the precise reasoning for [REDACTED].

- b) Counts 15/16: Article 7(1)(1)/Article 8(2)(c)(i) – Murder as CAH/WC

²¹²⁴ Element 2, Article 8(2)(c)(i)-4.

²¹²⁵ See Section IV.B.2.

²¹²⁶ See Section IV.B.2.

²¹²⁷ See Section IV.A.

²¹²⁸ See Section IV.A.

²¹²⁹ See below.

633. In Counts 15 and 16, Mr. Yekatom is charged with the killing of Lapo N’Gomat at the Yamwara on or about 24 December 2013. The Defence asserts that the OTP has failed to meet the requisite nexus requirement for the same reason set out above in relation to Count 15.

c) Counts 11/12: Article 7(1)(1)(f)/Article 8(2)(c)(i)-3– Other inhumane acts as CAH/ Cruel treatment as WC

634. In Counts 11 and 12, Mr. Yekatom is charged with other inhumane acts and cruel treatment as a CAH and WC respectively, pursuant to Article 7(1)(f) and Article 8(2)(c)(i)-3, in relation to the alleged abduction of seven persons, including three Muslim women, in or around Cattin and their transfer to the Yamwara on or about 24 December 2013, where six of them were allegedly subjected to severe physical and mental injury.

i) Gravity threshold cannot be established

635. Whilst the first material element in Article 7(1)(f) and Article 8(2)(c)(i)-3 differs in precise terms, the underlying act must cause great (or severe) suffering or serious injury to the physical or mental health of the victim.²¹³⁰ In both aspects there is a gravity threshold,²¹³¹ which must be assessed with reference to all relevant factual circumstances, including the nature of the act or omission that forms the factual basis of the charges, the context in which it occurred, the personal circumstances of the victim including age, sex and health, and the physical, mental and moral effects of the act upon the victim.²¹³²

636. However, the Chamber presently has conflicting information as to the precise severity of the suffering endured by the six victims which is compounded by the cross-contamination and propensity to embellish across all six witnesses.²¹³³ In particular, there are *inter-* and *intra-*inconsistencies in relation to the extent of the beatings suffered by P-1705, P-1716 and P-1704, the circumstances and location in which P-1811, P-0967 and [REDACTED] would have been searched whilst in their underwear and further, the exposure of the six victims to the alleged torture of Lapo N’Gomat and in particular whether the victims were direct eye witnesses.²¹³⁴ In this regard, it is noted that whilst third parties may be considered indirect victims of an inhumane act, it is for the OTP to establish that the third-party suffering was deliberate on the part of the

²¹³⁰ The first element of Article 8(2)(c)(i)-3 refers to ‘severe physical or mental pain or suffering’.

²¹³¹ ICC-01/12-01/18-2594-Red, para. 1128: The reference to ‘severe’ implies an important degree of pain and suffering. As to the objective element, the actus reus, the Chamber is of the view that, although there is no definition of the severity threshold as a legal requirement of the crime of torture, it is constantly accepted in applicable treaties and jurisprudence that an important degree of pain and suffering has to be reached in order for a criminal act to amount to an act of torture

²¹³² ICC-02/04-01/15-1762-Red, fn. 7133.

²¹³³ P-0967, P-1811, P-1654, P-1704, P-1705 and P-1716.

²¹³⁴ See Section IV.B.2.

perpetrator.²¹³⁵ Inconsistent evidence concerning whether any of the alleged six victims directly witnessed the alleged torture of Lapo N’Gomat is therefore of direct relevance to this assessment.²¹³⁶

637. In this regard, the Defence does not contest that the six victims were subject to mistreatment whilst at Yamwara, but that the degree of such has not been established to the requisite standard to allow the Chamber to determine whether the gravity threshold has been met.

ii) Gravity threshold must be applied restrictively

638. The limitations posed by the contaminated evidence are exacerbated by the requirement for a restrictive application of the gravity threshold.²¹³⁷ With respect to Article 8(2)(c)(1)-3, acts of cruel treatment carry the same meaning as ‘inhuman treatment’ for the purposes of Article 8(2)(c)(1)-4.²¹³⁸ In other words, acts of cruel treatment must meet the same standards as acts of torture but for the purpose requirement.²¹³⁹

639. With respect to the attempt to charge cruel treatment through Article 7(1)(k) specifically, even assuming what happened amounted to cruel treatment, this was already a recognised crime at the time of the drafting of the Rome Statute (as can be seen from Article 8). For the drafters to have included torture alone in the enumerated acts in Article 7 suggests a deliberate intention by the drafters to exclude cruel treatment from being considered as a crime against humanity *per se*.²¹⁴⁰ Noting the kinds of acts found to meet the gravity threshold for other inhumane acts at the ICC and elsewhere, the conduct charged fails to meet the standard under Article 7(1)(k).²¹⁴¹

640. Finally, the Defence reasserts that the OTP has failed to establish the nexus requirement for Counts 11 and 12 for the same reason set out above.

d) Count 14: Article 7(1)(e) – Imprisonment

641. In Count 14, Mr. Yekatom is charged with imprisonment and other forms of severe deprivation of liberty pursuant to Article 7(1)(e), in relation to the alleged abduction of seven persons,

²¹³⁵ ICTR-95-01-T, para. 153; Mettraux (2020), pp. 697-698.

²¹³⁶ ICC-01/09-02/11-382-Red, paras. 274 *et seq.*

²¹³⁷ No. 002/19-09-2007-ECCC/SC, para. 581.

²¹³⁸ IT-96-21-T, para. 552.

²¹³⁹ La Haye (2001), p. 209; Geib/Zimmerman (2022), 908. See e.g. IT-03-66-T, para. 232 where the unlawful detention, prolonged detention and interrogation of alleged collaborators did not amount to cruel treatment. See also IT-97-25-T, paras. 200 *et seq.*; IT-98-32/1-A, para. 634 ([t]he Appeals Chamber considers that not all acts committed in detention can be presumed to meet the requisite seriousness).

²¹⁴⁰ La Haye (2001), p. 209.

²¹⁴¹ See e.g. ICC-01/12-01/18-2594-Red, para. 1186 (forced marriage, forcible circumcision and penile amputation, mental suffering caused by brutal killings and mutilations committed in front of family members, striking people with a machete and injuring protesters by mortar fire, enforced disappearance of persons, deportation or forcible transfer of population, enforced prostitution, serious beatings, subjection to deplorable conditions of detention and requiring persons to witness the beatings or killings of others).

including three Muslim women, in or around Cattin and their transfer to the Yamwara on or about 24 December 2013 and the transfer of six of them to other locations until their release on or about 27 December 2013.

i) OTP has not established the severity of the deprivation of liberty

642. In order to discharge its burden of proof, the OTP must establish that the detention severely infringed upon the detained person's rights, with consideration of all factors relevant to evaluating the effect of detention on the detained individual, including his/her age, gender and health, the length and conditions of detention, the treatment received, and the level of protection guaranteed.²¹⁴²

643. Whilst it has been established that the brevity of detention alone does not alone defeat the severity of the deprivation of liberty,²¹⁴³ this was in relation to a fact pattern where the period of detention ranged between one and nine months.²¹⁴⁴ In this instance, the evidence establishes that the victims would have been detained by members of the RFACPP for one evening before Mr. Yekatom's intervention for their transfer to Yagouzou's custody in order to be released to the Sangaris.²¹⁴⁵

644. In the event that the total period of detention is considered – irrespective of control of custody, the point remains the same noting further that the victims were provided with food and bedding.²¹⁴⁶ Nor is there any evidence that the victims required any medical treatment or that they were denied such treatment whilst detained.²¹⁴⁷

ii) OTP has not established that the detention violated fundamental rules of international law

645. In accordance with the material elements of Article 7(1)(e), it is for the OTP to establish that the gravity of the conduct was such that it was in violation of fundamental rules of international law. In this regard, where detention is ordered for security reasons, this may be deemed legitimate, with parties to a conflict possessing broad discretion as to which activities are deemed harmful to the external or internal security of a party.²¹⁴⁸ Detention may be an option where there are serious and legitimate reasons 'to think that the person concerned, by his activities, knowledge or qualifications, represents a real threat to its present or future security'.²¹⁴⁹ Moreover, subversive

²¹⁴² Mettraux (2020), p. 489.

²¹⁴³ ICC-01/17-9-Red, para. 68

²¹⁴⁴ ICC-01/17-9-Red, para. 93.

²¹⁴⁵ See Section IV.B.2.

²¹⁴⁶ See Section IV.B.2.

²¹⁴⁷ Section IV. B.2.

²¹⁴⁸ IT-96-21-A, para. 323.

²¹⁴⁹ IT-04-74-A, paras. 367, 375.

activity carried on inside the territory of a party to the conflict or acts that directly assist an enemy power may constitute threats to national security.²¹⁵⁰

646. As set out above, there were legitimate reasons to apprehend and temporarily detain all six victims noting [REDACTED], the possession of Seleka card(s) and the conspicuously hidden SIM card.²¹⁵¹ These various factors give rise to a legitimate suspicion that the victims were Seleka forces and /or spies noting further the context of the ongoing active conflict and threats to the Yamwara.

647. Finally, the Defence reiterates that that the OTP has failed to establish the nexus requirement for Count 14 for the same reason set out above.

3. PK9-MBAÏKI AXIS

a) Counts 26/27: Article 7(1)(a)/Article 8(2)(c)(i) - Murder as CAH/WC

648. In Counts 26 and 27, Mr. Yekatom is charged with murder, pursuant to Article 8(2)(c)(i) and Article 7(1)(a), in relation to the alleged killing of Deputy Mayor Saleh on or about 28 February 2014 in Mbaïki, in the context of the ‘anti-balaka’s’ advance through and takeover of villages along the PK9-Mbaïki axis.

i) OTP has not identified the identity of the perpetrator

649. As set out above, the OTP must identify the perpetrator where the identity is a material fact.²¹⁵² In this instance, the charged crime is premised on the identity of the perpetrators so as to attribute the act to Mr. Yekatom. However, the OTP has failed provide reliable and clear evidence as to the identity of the direct perpetrator. There are conflicting accounts on the record, noting further the chaotic circumstances during the build-up to the killing and thereafter.²¹⁵³ Moreover, and contrary to the OTP’s case, the evidence does not reliably establish beyond reasonable doubt that Mr. Yekatom ‘admitted that he knew who was responsible for the killing’,²¹⁵⁴ or that he would have sanctioned any alleged suspect, nor does it establish that the perpetrator was part of the RFACPP during the commission of the killing.

b) Count 24: Article 7(1)(d) – Forcible transfer and deportation

650. In Count 24, Mr. Yekatom is charged, pursuant to Article 7(1)(d), with the alleged displacement of the majority of the Muslim population from their towns and villages between on or about 10

²¹⁵⁰ IT-04-74-A, paras. 367, 375.

²¹⁵¹ See above, and Section IV.B.2.b).

²¹⁵² See above Section V.B.1.b).

²¹⁵³ See Section IV.B.3.

²¹⁵⁴ ICC-01/14-01/18-723-Conf, para. 472.

January 2014 and on or about 6 February 2014, in the context of the ‘anti-balaka’s’ advance through and takeover of villages along the PK9-Mbaïki axis.

- i) OTP has not established that the forced or coerced nature of the movement is attributable to Mr. Yekatom

651. As set out above,²¹⁵⁵ the OTP must establish that Mr. Yekatom’s conduct amounted to expulsion or other coercive act which had the effect of forcibly displacing the victim(s). However, the evidence overwhelmingly breaks any causal links between the RFACPP’s movements along the PK9-Mbaïki axis and the displacement and evacuation of the Muslim population.

652. First, insofar that the OTP’s case exceeds the scope of the charges,²¹⁵⁶ and seeks to rely on evidence which would seek to link the displacement as alleged in Count 24 to events set in motion in Bangui-Bouchia October 2013, such evidence is unreliable, takes place prior to the RFACPP’s arrival on the axis and more pertinently, does not establish that the alleged incidents are attributable to Mr. Yekatom or the RFACPP.²¹⁵⁷

653. Second, the evidence also establishes that the coercive environment was created by a convergence of adverse events, all of which were unconnected to Mr. Yekatom’s conduct. As set out in detail in this brief, the Muslim population became more vulnerable following the resignation of Djotodia and the withdrawal of Seleka forces.²¹⁵⁸ At the same time, there was an increase in the intensity of hostilities between local communities, with the non-Muslim civilian population in particular seeking to retaliate against their Muslim neighbours for atrocities committed by the Seleka.²¹⁵⁹ The evidence demonstrates that these acts were undertaken by local civilians and self-defence groups who had taken up arms prior to the RFACPP’s arrival along the axis.²¹⁶⁰ Having lost their protection from the Seleka forces – and at times upon the advice or instruction of the Seleka – the Muslim population fled their localities towards Mbaïki.²¹⁶¹

654. Third, the evidence reveals that the local Muslim population would routinely misattribute criminal acts and misconduct to the RFACPP relying solely on the unsubstantiated assumption that all individuals identified as ‘anti-balaka’ in Lobaye were affiliated with the group and/or acting under the direction and control of Mr. Yekatom.²¹⁶² This concerns acts undertaken by local defence groups and/or other FACA-led movements which were present along the axis, including

²¹⁵⁵ See above Section V.B.1.

²¹⁵⁶ See Section II. A.1.

²¹⁵⁷ See Section IV.B.3.

²¹⁵⁸ See Section IV.B.3.

²¹⁵⁹ See Section IV.B.3.

²¹⁶⁰ See Section IV.B.3.

²¹⁶¹ See Section IV.B.3.

²¹⁶² See Section IV.B.3.

in particular [REDACTED] i.e. opposite the RFACPP station [REDACTED].²¹⁶³ Whilst the Muslim population would have been mistaken in their understanding as to the perpetrators of any criminal acts which led to their forced expulsion, this is insufficient to establish the requisite link between Mr. Yekatom's conduct and the coercive act in question.

655. Fourth, the evidence reveals that the Muslim population fled their homes in the mistaken belief that the RFACPP's arrival would result in conflict and that this would have created a domino effect, with witnesses indicating that they left their locality as other Muslims had also left.²¹⁶⁴ It is along these same lines that the Chadian Muslim population would have taken the initiative to leave Mbaïki prior to the RFACPP's presence on the axis. However, the victim's decision to leave the localities prior to the commission of crimes or threatening acts due to a fear of violence commonly associated with armed conflict, or a general fear or distrust of the particular authority in question does not allow for the conclusive determination that acts attributable to Mr. Yekatom or the RFACPP would have created an environment in which those present had no choice but to leave.²¹⁶⁵

656. Fifth, and relatedly, the first element of Article 7(1)(d) is not met where the individual voluntarily leaves the area before any coercive circumstances arise, and where there is no evidence that the perpetrator's conduct following their departure was aimed at creating conditions to hamper their return.²¹⁶⁶ In this respect, even with the Muslims' mistaken belief as to the alleged culpability of the RFACPP prior to their displacement, there is no evidence that the RFACPP either prevented the Muslim population from returning or would have created conditions which prevented their return. In fact the evidence establishes that following the RFACPP's arrival in villages along the axis, the movement sought to assist the Muslim population by calming down the local population, facilitating Muslims' movements along the axis, assisting the gendarmerie to return to their posts and restoring security along the axis.²¹⁶⁷

ii) OTP has not established that RFACPP military operations were unlawful

657. The OTP has not established that the RFACPP's movements along the axis created, or took advantage of, the coercive environment as a result of an unlawful attack. In this regard, cross-reference is made to the fact that incidental displacement as a result of an entirely lawful attack, or collateral consequences of a lawful attack, does not amount to forcible transfer or displacement

²¹⁶³ See Section IV.B.3.

²¹⁶⁴ See Section IV.B.3.

²¹⁶⁵ IT-06-90-T, para. 1762.

²¹⁶⁶ ICC-01/04-02/06-2359, paras. 1061, 1067.

²¹⁶⁷ See Section IV.B.3.

for the purposes of Article 7(1)(d).²¹⁶⁸

658. The evidence establishes that the purpose of the RFACPP's movements along the axis was to provide security and facilitate the work of the gendarmerie in the midst of a security vacuum created and taken advantage of by the Seleka forces. In this respect, the evidence establishes that even after Djotodia's resignation, the Seleka forces continued to exact atrocities against the civilian population in Lobaye and posed a threat as an enemy force to the RFACPP. The RFACPP's conduct, including its securing of Seleka posts, thus served a legitimate military purpose – namely to prevent the return of the Seleka.²¹⁶⁹

659. The legality and necessity of the RFACPP's movements and subsequent arrival in Mbaïki was as a result of multi-party negotiations and at the request of local authorities, religious leaders, and humanitarian agencies.

c) Count 25: Article 8(2)(e)(viii) – Displacement

660. In Count 25, Mr. Yekatom is charged with ordering the displacement of a civilian population, pursuant to Article 8(2)(e)(viii), in relation to the alleged displacement of majority of the Muslim population from their towns and villages between on or about 10 January 2014 and on or about 6 February 2014, in the context of the 'anti-balaka's' advance through and takeover of villages along the PK9-Mbaïki axis.

661. On the same basis as set out above,²¹⁷⁰ the evidence has not established that Mr. Yekatom issued a specific order for the displacement of the Muslim population as required under the first material element under Article 8(2)(e)(viii). Nor has the OTP established, in the alternative, that Mr. Yekatom's instruction to move along the axis had a direct effect on the commission of the crime and that he would have been virtually certain that his instruction would result in the commission of the crime in the ordinary course of events.

662. For the purposes of the second material element – i.e. that the order was not justified by the security of the civilians involved or by military necessity – the Defence relies on its submissions on the legitimacy of the movement along the axis as set out in Count 24.

4. ADDITIONAL CHARGES

a) Counts 8, 17 and 28: Article 7(1)(h) – Persecution

663. In Counts 8, 17 and 28, Mr. Yekatom is charged with persecution, pursuant to Article 7(1)(h), in relation to the alleged severe deprivation of the fundamental rights of persons in Bangui, including

²¹⁶⁸ ICC-01/04-02/06-2359, para. 1056.

²¹⁶⁹ See Section IV.B.3.

²¹⁷⁰ See above Section V. B.1.d).

Cattin and Boeing, the Yamwara School Base, and the villages along the PK9-Mbaïki Axis, by targeting them on the basis of political, ethnic and/or religious grounds.

664. In this regard, the OTP has charged persecution in a manner which makes it dependent upon establishing the other charged crimes. If the underlying crimes are not proven – as is set out above – then persecution necessarily fails as well.

i) OTP has not established persecutory intent

665. Even assuming, *arguendo*, that the OTP has established the charged crimes as set out in Counts 8, 17 and 28, it has still failed to establish that the crimes discriminatorily targeted the Muslim population. Indeed, there is no such *indicia* of this intent – in contrast to other cases before this Court²¹⁷¹ and contrary to the OTP’s narrative,²¹⁷² Mr. Yekatom did not issue any public statements or campaigns against the Muslim population.²¹⁷³ Indeed the evidence shows that he did the very opposite and repeatedly spoke out in protection of the Muslim population.²¹⁷⁴ This is also proven in relation to other RFACPP members who also spoke in support of or assisted the Muslim population.²¹⁷⁵

666. Indeed the very ethos of the RFACPP movement was its military operation targeting the Seleka forces in protection of the civilian population as a whole. As such, the alleged crimes in Boeing/Cattin also concern a military operation targeting armed combatants and legitimate military targets. Similarly, in relation to both the alleged conduct at Yamwara and along the PK9-Mbaïki axis, the alleged crimes involved suspected or actual Seleka forces and were therefore part of the legitimate aim recognised in the Confirmation Decision.²¹⁷⁶ Whilst Counts 6, 26 and 27 would be an exception if proven, it would constitute two discrete incidents and would not establish any alleged pattern of crimes which targeted the Muslim population.

b) Count 29: Article 8(2)(e)(vii) – Conscription, enlistment and use of children

667. In Count 29, Mr. Yekatom is charged with the conscription, enlistment and use of children under the age of fifteen years to participate actively in hostilities, pursuant to Article 8(2)(e)(vii), for the alleged conscription and/or enlistment of children into his group at various locations including Boeing, Sekia and Pissa along the PK-9 Mbaïki axis and in Batalimo along the Pissa-Mongoumba axis, and the alleged assignment of a variety of tasks to them, such as, inter alia, participating in

²¹⁷¹ ICC-01/04-02/06-2359, paras. 991-1022; ICC-01/12-01/18-2594-Red, paras. 1527-1545.

²¹⁷² ICC-01/14-01/18-723-Conf, para. 385.

²¹⁷³ IT-98-30/1-A, para. 461

²¹⁷⁴ See Section IV.A.

²¹⁷⁵ See Section IV.A.

²¹⁷⁶ ICC-01/14-01/18-423-Conf-Corr, para. 64.

hostilities, including the ‘5 December 2013 Attack’, between at least December 2013 and August 2014.

- i) OTP has not established that children under the age of fifteen were integrated into the RFACPP or used to participate actively in hostilities

668. In order to discharge its burden vis-à-vis the charged conscription or enlistment of children under the age of fifteen, the OTP must establish that they were incorporated into the armed force or group.²¹⁷⁷ There is however no credible evidence²¹⁷⁸ that any person under the age of fifteen years old was integrated into the RFACPP.

669. First, it is recalled that the evidence of P-2475, P-2476, V45-0001 and V45-0002 is wholly unreliable rendering it devoid of any value.²¹⁷⁸ All four witnesses fabricated their involvement with the RFACPP and their alleged abductions into the movement. They were neither integrated into the movement such that they were enlisted or conscripted and by extension, their respective accounts concerning the presence of other alleged child soldiers within the RFACPP is equally fabricated.²¹⁷⁹ Second, the overwhelming evidence of RFACPP members called to testify as OTP witnesses were categorical that there were no child soldiers under the age of fifteen years in the movement,²¹⁸⁰ and more precisely that they were not integrated into the RFACPP.²¹⁸¹

670. Third, and relatedly, whilst there is limited evidence that children would have been observed in the surrounding vicinity of Yamwara, or at barriers in Sekia and Pissa which were manned by the RFACPP, this does not satisfy the material element. Not only has the OTP failed to establish the ages of these individuals, but the mere presence of children under fifteen years old in camps, bases or security posts does not in and of itself allow for the inference that the individual was enlisted, conscripted or used by the group in question.²¹⁸² The OTP has not established that these individuals were integrated or even associated in anyway with the RFACPP such that they would have been ‘enlisted’ in the group. In this regard, the evidence establishes that children observed around Yamwara were local neighbourhood children and would go to Yamwara for various reasons, such as to collect water from the only water fountain in the area.²¹⁸³ Similarly, children observed around the barriers were not seen undertaking any activities or tasks on behalf of the RFACPP.²¹⁸⁴

²¹⁷⁷ ICC-01/04-02/06-2359, para. 1105.

²¹⁷⁸ See Section II.C.2.a); and IV.B.4.

²¹⁷⁹ See Section IV.B.4.

²¹⁸⁰ See Section IV.B.4.

²¹⁸¹ See Section IV.B.4.

²¹⁸² ICC-01/04-02/06-2359, para. 1124.

²¹⁸³ See Section IV.B.4.

²¹⁸⁴ See Section IV.B.4.

671. Further, noting that the term ‘to participate actively in hostilities’ imports a ‘wide interpretation to the activities and roles that are covered by the offence of using children under the age of 15 actively to participate in hostilities’,²¹⁸⁵ it remains necessary to analyse the link between the activity and any combat in which the relevant armed group is engaged in order to determine whether the individual was ‘used’ to participate actively in hostilities.²¹⁸⁶ To conduct this assessment, the OTP must establish the specific tasks or duties assigned to the alleged child soldier;²¹⁸⁷ mere reference to the title or name provided to the child would not establish the alleged conduct which constitute active participation for the purpose of Article 8(2)(e)(viii).²¹⁸⁸ In this regard, the fact that a child is described as patrolling or guarding a barrier without establishing the military purpose of the activity – as opposed to a general security measure against ordinary crimes – would fall short of establishing that the child was actively participating in hostilities.²¹⁸⁹

ii) OTP’s mid-trial strategic re-evaluation on Count 29 is unavailing

672. In what appears to have been a belated recognition of the fraudulent nature of ESF Programme, the OTP has adopted a novel interpretation of the law on enlistment and conscription of children, suggesting that the very fact of fraudulently ‘demobilising’ children under the age of fifteen, who were not part of the group, would establish the element of ‘enlistment into an armed group’ via the ‘custody and control’ of the children by RFACPP commanders (i.e. assembling children and requesting information from them for a fraudulent ‘demobilisation’).²¹⁹⁰ This interpretation is entirely misguided and in any case based on the erroneous assumption that the listed ESF individuals are under fifteen years old. It is also a non-starter: the identification and verification process cannot reasonably be described as one which would subject an individual to the ‘custody and control’ of RFACPP chiefs or commanders.²¹⁹¹

673. Nor can it comprise ‘incorporation into’ an armed group. The OTP’s egregious expansion of the

²¹⁸⁵ ICC-01/04-02/06-2359, para. 1108; ICC-01/04-01/06-3121-Red, para. 334.

²¹⁸⁶ ICC-01/04-02/06-2359, para. 1108.

²¹⁸⁷ ICC-01/04-02/06-2359, para. 1131.

²¹⁸⁸ Cf. ICC-01/04-02/06-2359, paras. 1123.

²¹⁸⁹ ICC-01/04-02/06-2359, paras. 1131-1132.

²¹⁹⁰ ICC-01/14-01/18-2122-Conf, para. 6.

²¹⁹¹ ICC-01/14-01/18-2122-Conf, para. 7; needless to say, the alleged assembly and collection of identifying information for a fraudulent demobilisation programme is a far cry from the ‘enlistment’ fact patterns seen in other cases before this Court; see e.g. operations in *Lubanga* (regarding UPC/FPLC leaders’ active involvement in mobilisation drives and recruitment campaigns culminating in children being sent to UPL/FPLC headquarters or training camps where they endured harsh training regimes, punishments, and in some cases sexual assaults’, ICC-01/04-01/06-2842, paras. 911-914), *Ntaganda* (regarding UPC/FLPC recruitment campaigns through awareness raising campaigns and rallies, and through the imposition of obligations on families to provide children for military service including via threats, ICC-01/04-02/06-2359, paras. 1117-1119) and *Ongwen* (regarding the LRA’s ‘specific focus on’ the coordinated and methodical abduction of children, including during attacks, who were subjected to beatings as a form of initiation and military training, ICC-02/04-01/15-1762-Red, paras. 2312-2313, 2329-2394).

material element in Article 8(2)(e)(vii) risks undermining the very purpose of the provision,²¹⁹² thus eroding the protective framework established by IHL. Indeed, if it is sufficient for an individual to be listed in a fraudulent demobilisation programme to satisfy the ‘enlistment’ requirement, this places that very same individual at risk: in other words, if civilians under an armed group’s ‘control and custody’ for fraudulent ‘demobilisation’ purposes were deemed legally ‘enlisted’ within that armed group, this could effectively strip them of their IHL immunity, which could lead to their being wrongfully targeted or indeed prosecuted.

iii) OTP has not established that the persons were under the age of fifteen years old

674. Having failed to show that there were any children within the RFACPP, the OTP has also failed to prove that there were any children who were under fifteen years old in the movement during the charged period.

675. Noting the limitations and inaccuracies with visual estimates,²¹⁹³ the case record is replete with fabricated identification documents used by OTP witness and participating victims in an attempt to financially benefit from this Court.²¹⁹⁴ At the core of this is the fraudulent ESF which was responsible for determining the eligibility of participating individuals in the demobilisation programme.²¹⁹⁵ As the evidence demonstrates, there was no internal nor external verification of the age of the individuals enrolled in the programme and nor was there any coherent or reliable methodology adopted by the organisers.²¹⁹⁶

676. As a result, and as supported by the evidence, of the sixty individuals listed on the First ESF List, the participants: were over the age of fifteen during the charged period, or were under the age of fifteen during the charged period but were not part of any armed group.²¹⁹⁷ The extent of the corruption of the organisers and/or the inauthenticity of the First ESF List is further depicted by the inclusion of ESF family members.²¹⁹⁸

677. The Second ESF List is equally flawed, as it includes individuals who either did not participate in the demobilisation programme and/or duplicates entries from the First ESF List under different identifying details.²¹⁹⁹ These discrepancies significantly compromise the list's accuracy and

²¹⁹² ICC-01/04-02/06-2359, para. 1108

²¹⁹³ See Section IV.B.4.

²¹⁹⁴ See Section IV.B.4.

²¹⁹⁵ See Section IV.B.4.

²¹⁹⁶ See Section IV.B.4.

²¹⁹⁷ See Section IV.B.4.

²¹⁹⁸ See Section IV.B.4.

²¹⁹⁹ See Section IV.B.4.

reliability.

- iv) OTP has not established that Mr. Yekatom had knowledge that children under fifteen years old were in the RFACPP

678. Article 8(2)(e)(vii) includes a specific intent requirement such that the OTP must prove that Mr. Yekatom would have known that there were children under the age of fifteen within the RFACPP. Having failed to establish the existence of children in the movement *per se*, there is no reasonable basis to assert that Mr. Yekatom therefore has the requisite knowledge for this material element.

679. Even assuming, *arguendo*, that the existence of the demobilisation programme is sufficient for Article 8(2)(e)(vii), there is no evidence that Mr. Yekatom knew of the identities of individuals on either the First or Second ESF List, let alone their ages. Noting that there is no reliable evidence that the RFACPP would have contributed to the First or Second ESF List, there is also no evidence that Mr. Yekatom or any other RFACPP member ever saw the completed lists. At most, the evidence establishes that Mr. Yekatom was asked to sign the document entitled ‘Décharge’ which had no entries and did not refer to names or birth dates. This is evidentially insufficient for the special intent requirement under Article 8(2)(e)(vii).

C. Individual criminal responsibility

680. Mr. Yekatom is alleged to have committed the charged crimes as a (in)direct co-perpetrator and as an indirect perpetrator pursuant to Article 25(3)(a), or in the alternative that he ordered the commission of the charged crimes pursuant to Article 25(3)(b).

1. OTP has not established that Mr. Yekatom jointly committed the crimes with or through others

- a) There is no group with a common purpose committing crimes to which Mr. Yekatom is a member

681. In order to establish Mr. Yekatom’s culpability the OTP must first prove that Mr. Yekatom entered into a common plan or agreement which includes a ‘critical element of criminality’, namely that its implementation will, in the ordinary course of events, lead to the commission of a crime.²²⁰⁰ The existence of such an agreement is necessary for the OTP to prove in relation to (in)direct co-perpetration.²²⁰¹

682. The confirmed charges are centred on the existence of an alleged plan in which ‘François Bozizé, together with Mr. Ngaïssona, B. Mokom, Maxime Mokom, and others, began planning a response

²²⁰⁰ ICC-02/04-01/15-2022-Red, paras. 626-638 cites therein.

²²⁰¹ ICC-02/04-01/15-2022-Red, paras. 626-638 cites therein.

to the Seleka offensive and Bozize's return to power' and that in order to achieve this end 'links were established between members of the Forces Armées Centrafricaines (the 'FACA') and the Garde Présidentielle who remained loyal to François Bozizé, on the one hand, and existing self-defence groups which had formed in different parts of the CAR, on the other hand' such that '[f]rom June 2013 onwards, the former members of the FACA and the Garde Présidentielle merged with the pre-existing and new self-defence groups, organised them into a military-like structure and assumed and/or shared command over them'.²²⁰² It is alleged that this movement came to be known as the 'anti-balaka' and that '[a]long with their primary and per se legitimate objective to overthrow the Seleka regime and oust them from the CAR, the Anti-Balaka also developed a criminal policy of targeting the Muslim population in western CAR'.²²⁰³

683. Contrary to the OTP's narrative, the evidence establishes that there was no single unified or coordinated 'anti-balaka' movement. Rather there were multiple resistance groups in CAR during the relevant period which can be broadly described as: (i) local grassroot civilian groups which identified as 'anti-balaka' but were not part of any broader coordination, (ii) local civilian groups and mob units which identified as 'anti-balaka' but were not recognised by any other coordination, (iii) military groups which identified as 'anti-balaka' and were recognised as the Anti-Balaka North Coordination, (iv) military groups which identified as 'anti-balaka' and were recognised as the Anti-Balaka South Coordination and (v) military groups which did not identify as 'anti-balaka'. Whilst these groups may have each shared the same ideological opposition to the Seleka – to varying degrees – this is where the similarities end.

684. The evidence also establishes that the Anti-Balaka North Coordination and the Anti-Balaka South Coordination were distinct entities up until June 2014 and held diametrically opposed objectives – namely, that whilst the Anti-Balaka North Coordination sought the return of Bozize to power, this was not shared by the Anti-Balaka South Coordination.²²⁰⁴ In this respect the charged common purpose at most, would only concern groups which fell within the Anti-Balaka North Coordination.

685. In this respect, not only has the OTP failed to prove that Mr. Yekatom was part of the 'anti-balaka' movement during the charged period,²²⁰⁵ it has not established that Mr. Yekatom was a part of, or coordinated with, the Anti-Balaka North Coordination.²²⁰⁶ There is no reliable evidence that Mr. Yekatom coordinated with Mokom whilst in Zongo or thereafter or that he did so as part of the

²²⁰² ICC-01/14-01/18-403-Conf-Corr, para. 64.

²²⁰³ ICC-01/14-01/18-403-Conf-Corr, para. 64.

²²⁰⁴ See Section IV.A.

²²⁰⁵ See Section IV.A.

²²⁰⁶ See Section IV.A.

common purpose to restore Bozize to power.²²⁰⁷ Nor is there any reliable evidence that Mr. Yekatom coordinated with or reported to the Anti-Balaka North Coordination either through Mokom or others.²²⁰⁸ Nor does the evidence establish that Mr. Yekatom received any financial resources or ammunition from the Anti-Balaka North Coordination.²²⁰⁹

686. Rather the evidence establishes that Mr. Yekatom was a part of distinct and separate movement, the RFACPP, whose shared objectives were legitimate military aims and limited to: (a) the restoration of security and administrative infrastructures in CAR; (b) the protection of the civilian population; and (c) reinforcement of resources and security measures. Similarly, Mr. Yekatom did not ‘join’ the Anti-Balaka South Coordination during the charged period but was merely supportive of its political aims.

b) Mr. Yekatom did not control the direct perpetrators by subjugating anyone’s will or by making an essential contribution to any crime

687. It is the OTP’s burden to establish that Mr. Yekatom had control over the crime by virtue of his essential contribution to it and the resulting power to frustrate its commission.²²¹⁰ In relation to the charged crimes, Mr. Yekatom’s alleged contribution consisted in: ‘(i) structuring, training and equipping his Anti-Balaka elements; (ii) preparing the Anti-Balaka attacks and advances, and participating and leading his group in the execution of these attacks and advances; (iii) issuing orders to Anti-Balaka members, including patently illegal instructions; and (iv) conscripting and/or enlisting children under the age of fifteen years into his group and using them to assist him in the camp-bases, giving orders for them to be stationed at barriers and checkpoints as well as to actively participate in hostilities.’²²¹¹

688. The Rome Statute has been consistently interpreted through the lens of the control theory, which divides principals from accessories on the basis of which persons exercised control over the crimes charged.²²¹² At the ICC, only those who retain the sole power to frustrate the commission of a crime can be regarded as principals.²²¹³

689. The charges in this case depend on Mr. Yekatom acting through an ‘organisation’, but in order to be held responsible as a principal for any such crimes he would have to subjugate the will of the direct perpetrators through an organised power apparatus.²²¹⁴ Any conduct that leaves a

²²⁰⁷ See Section IV.A.

²²⁰⁸ See Section IV.A.

²²⁰⁹ See Section IV.A.

²²¹⁰ ICC-02/04-01/15-2022-Red, para. 253.

²²¹¹ ICC-01/14-01/18-403-Conf-Corr, para. 107.

²²¹² See ICC-01/04-02/06-2666-Red, para. 1041.

²²¹³ ICC-02/04-01/15-2022-Red para. 629.

²²¹⁴ ICC-02/04-01/15-2022-Red para. 630.

subordinate at liberty to decide whether to execute a crime removes that conduct from the ambit of Article 25(3)(a).²²¹⁵ What Chambers are required to assess when determining whether an indirect [co]-perpetrator controls the crimes includes: (i) the hierarchical organisation of the apparatus; (ii) the functional automatism; (iii) the replaceable nature of its members on the ground; and (iv) the fact that the criminal acts of the direct perpetrator are to the benefit of the organisation.²²¹⁶ Read in this light, the OTP case falls well short of the level of required control.

- i. *Hierarchical organisation of the apparatus*: Contrary to the OTP's case, the RFACPP was not composed of 3,000 members and was far smaller and less organised than that presented by the OTP. Indeed, the OTP's case concerning the alleged hierarchy of the movement is based on assumptions concerning the operation of formal military forces and assigned titles only without establishing how these roles took effect in reality. In doing so, the OTP overlooks the fact that the movement was composed of FACA personnel and non-military personnel and as such, did not exist as a formal military unit. Mr. Yekatom did not present himself as the RFACPP's command leader and maintained his role and duties as a FACA caporal chef along with the other FACA members in the movement.²²¹⁷
- ii. *Functional automatism*: RFACPP members – both FACA and non-military – all voluntarily joined the movement in order to protect the civilian population against the continued Seleka atrocities and to ensure that peace and security was restored in CAR. Similarly, the evidence establishes that members – again both FACA and non-military personnel – could leave the movement at will and without sanction.²²¹⁸ There are clear indications that Mr. Yekatom was not able to 'subjugate the will' of the members of his group, noting both the independence within the group itself,²²¹⁹ and the fact that Mr. Yekatom evidently could not command members at will.²²²⁰ To the extent Mr. Yekatom is charged with coordinating other crimes, such coordination would fall well short of holding him responsible for committing crimes that these other groups committed.²²²¹

²²¹⁵ See ICC-02/04-01/15-2022-Red, para. 631.

²²¹⁶ ICC-01/04-01/07-717, paras. 512-513.

²²¹⁷ See Section IV.A.

²²¹⁸ See Section IV.A.

²²¹⁹ See Section IV.A.

²²²⁰ See Section IV.A.

²²²¹ MICT-16-99-A, para. 117: ([t]he Trial Chamber's considerations clearly indicate that it was not persuaded beyond a reasonable doubt that the alleged members of the joint criminal enterprise - when using the principal perpetrators - acted in accordance with a common criminal plan. Indeed, the existence of a certain level of coordination on the ground among various factions and the commission of crimes by some of these factions may not necessarily suffice, in the context of a given case, to show beyond a reasonable doubt that such cooperation was in pursuance of a common criminal purpose. The various factors and evidence considered by the Trial Chamber in this particular case, including its doubt as to the purpose behind the recruitment and deployment of volunteers by Seselj and the limited involvement of 'Seselj's men' in proven crimes, could

- iii. *Replaceable nature of its members*: The RFACPP movement was composed of various sections led by FACA who were responsible for the training and discipline of their members. As part of this, Mr. Yekatom and Oujandijo operated two units each with independent functionality across material aspects throughout the charged period.²²²² This fundamentally undermines any question as to whether Mr. Yekatom could freely replace anyone who did not follow his orders.
- iv. *Acts to the benefit of the organisation*: Mr. Yekatom's commitment to ensure that all members were trained in, and respected, IHL rules including the principles of distinction and proportionality,²²²³ shows that the acts he intends to benefit his organisation were of a lawful military variety. In particular, the evidence demonstrates that Mr. Yekatom put in measures to minimise risk to the civilian population during operations conducted by the RFACPP.²²²⁴ Committing crimes was antithetical to the purpose of the RFACPP as understood by Mr. Yekatom.

690. For these same reasons, the OTP has evidently failed to establish that Mr. Yekatom made any essential contribution of any kind. As such, it was not possible for Mr. Yekatom to be able to frustrate the commission of anyone committing crimes in his situation – put simply, and within the application of the control theory – Mr. Yekatom did not have the requisite degree of control to do so.

c) Mr. Yekatom did not share the requisite *mens rea* to commit crimes

691. Even if the objective elements of direct or indirect [co-]perpetration could be established, it is for the OTP to establish that the subjective elements for the charged crimes were fulfilled in accordance with Article 30.²²²⁵

692. First, the OTP's case that Mr. Yekatom would have issued illegal orders or encouraged the commission of any of the charged crimes did not materialise. As set out in detail in this brief, Mr. Yekatom did not issue any order to target the Muslim population and nor did he encourage other RFACPP members to do so at any point in the charged period. More specifically Mr. Yekatom did not instruct or order RFACPP members to: (i) attack Muslims and Seleka at the Boeing Market, 'shoot the Muslims' at Boeing Market or order the destruction of the Boeing Mosque,²²²⁶ or (ii)

also" be potentially consistent with a conclusion that the cooperation among the various Serbian forces and Seselj resulted from the necessities of the war effort and was not necessarily indicative of the existence of a common criminal purpose).

²²²² See Section IV.A.

²²²³ See Section IV.A.

²²²⁴ See Section IV.A.

²²²⁵ To the extent the charged crimes concern special or specific intent elements, these are discussed above.

²²²⁶ ICC-01/14-01/18-723-Conf, paras. 407-409.

tie up Lapo N’Gomat and to cut his ear off, or order the beating of three other abductees.²²²⁷

693. Nor has the OTP been able to establish that Mr. Yekatom was aware that undertaking legitimate military operations would have led to the charged crimes in the ordinary course of events. In the absence of such crimes flowing as a virtual certainty from his conduct,²²²⁸ Mr. Yekatom lacks both intent and knowledge for the charged crimes.

694. Moreover, the evidence positively establishes that Mr. Yekatom’s actual intent was to protect the civilian population - which included Muslims - and to promote social cohesion and peace throughout CAR.²²²⁹ This is reflected in the instructions he issued and his conduct throughout the charged period.²²³⁰ Mr. Yekatom ensured that his protection of the Muslim population was well known both within the RFCAPP and across the local population. It is as a result of his intentional acts that the Muslim population turned to him for assistance against violence by the non-Muslim population.²²³¹ Moreover the evidence establishes that Mr. Yekatom was willing to assist or coordinate with all other movements – be it international forces, NGOs, local and governmental authorities or even Seleka forces - which shared his promotion for social cohesion.²²³²

d) Conclusion

695. To hold someone criminally responsible *as a principal* on the facts of this case would be to remove any distinction between direct or indirect [co-]perpetration and ordering under Article 25(3)(b). Noting that the OTP has also failed to show the existence of an illegal order, Mr. Yekatom must be acquitted under both modes of liability.

2. OTP has not established that Mr. Yekatom issued illegal instructions or orders

696. As set out above, the OTP has not proven that Mr. Yekatom issued any criminal orders or instructions. Nor has it proven that the orders issued had any direct effect on the commission of the charged crimes.²²³³ Accordingly, there is no causal connection between Mr. Yekatom’s instructions and the alleged commission of crimes which far exceeded the scope of his instructions. In this regard, and as applicable in relation to the Article 25(3)(a) submissions, the

²²²⁷ ICC-01/14-01/18-723-Conf, para. 454. Mr. Yekatom was also not present during the charged incident in Counts 11-16 and did not personally threaten the abductees *contra* ICC-01/14-01/18-723-Conf, para. 455. See also Section IV.B.2.b).

²²²⁸ ICC-01/04-01/06-3121-Red, paras. 446-455. See also most recently ICC-01/12-01/18-2594-Red, para. 1765.

²²²⁹ See Section IV.A.

²²³⁰ See Section IV.A.

²²³¹ See Section IV.A.

²²³² See Section IV.A.

²²³³ ICC-01/04-01/12-1-Red, para. 63. See also ICC-01/05-01/13-1989-Red, para. 77; ICC-01/12-01/15-84-Red, para. 25; ICC-02/04-01/15-422-Red, para. 42; ICC-02/11-02/11-186, para. 159; ICC-02/11-01/11-656-Red, para. 244.

OTP has failed to prove that Mr. Yekatom had awareness that his orders would, with virtual certainty, result in the commission of the charged crimes in the ordinary course of events.

VI. CONCLUSION

697. The OTP's case against Mr. Yekatom was fundamentally flawed from the outset, rooted in a misunderstanding of the CAR crisis and the response to Seleka atrocities. Instead of thoroughly examining the evidence to ascertain the truth of Mr. Yekatom's actions, the OTP adopted a one-size-fits-all approach to the CAR crisis, disregarding significant warning signs and overlooking serious allegations of fabrication. Despite an inflated evidentiary record, the specific allegations simply failed to materialise, and the OTP has not proven beyond a reasonable doubt that Mr. Yekatom is individually criminally responsible for the charged crimes.

698. For the foregoing reasons, Mr. Yekatom should be acquitted of all counts charged against him.

RESPECTFULLY SUBMITTED ON THIS 6th DAY OF DECEMBER 2024²²³⁴



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