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**International
Criminal
Court**

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TRIAL CHAMBER V

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 YEKATOM AND PATRICE-ÉDOUARD
NGAISSONA***

Public document

Public Redacted Version of the “Submissions relevant to potential sentencing on behalf of the Victims of Other Crimes”, No. ICC-01/14-01/18-2745-Conf, 13 December 2024

Source: Common Legal Representatives of Victims of Other Crimes

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

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I. INTRODUCTION

1. The Common Legal Representatives of the Victims of Other Crimes (the “CLR V”) hereby file their submissions relevant to potential sentencing on behalf of the 1,673 victims¹ they represent in these proceedings.

2. The CLR V respectfully request that both Mr Yekatom and Mr Ngaïssona be sentenced to 30 years of imprisonment in accordance with articles 77(1)(b), 78(1) and (3) of the Rome Statute (the “Statute”) and rule 145 of the Rules of Procedure and Evidence (the “Rules”). Despite the fact that the Accused are charged under different modes of liability, the CLR V submit that their essential contributions, without which the crimes could not have been committed in the same way, should lead to the imposition of the same sentence.

3. This request is justified by the extreme gravity of the crimes – which, in the Victims’ submission, are proven beyond reasonable doubt –, given their seriousness *in abstracto* and *in concreto*, in light of the specific circumstances of the case, and the factors enumerated in rule 145(1)(c) of the Rules. In particular, the CLR V refer to the extent of the profound damages caused to and the magnitude of the harm suffered by the Victims, their families and more generally the Muslim community.

4. The request is further justified by the presence of several aggravating circumstances, including the defencelessness of the Victims, the high number of Victims, the abuse of power by and/or the official capacity of Mr Yekatom and Mr Ngaïssona in the commission of the crimes, and the discrimination against the Victims on ethnic, religious and/or political grounds. The CLR V further posit that no mitigating circumstances exist in the present case. Moreover, nothing in the individual circumstances of Mr Yekatom or Mr Ngaïssona could justify a reduction of the sentence.

5. The sentence of 30 years of imprisonment appears to be the only appropriate punishment in light of the extreme seriousness of the crimes, which were marked by cruelty and inhumaneness, causing immeasurable harm to the Victims, their families and their communities. Said sentence is, in the Victims’ view, the only adequate response to the incurable pain inflicted upon them which caused important consequences on their life still, visible more

¹ See the “Twelfth Periodic Report on the Victims Admitted to Participate in the Proceedings”, No. [ICC-01/14-01/18-2742](#), 11 December 2024, para. 15.

than 10 years after the events, including unprecedented challenges in recovering from the prejudice suffered as a result of the crimes committed.

II. CONFIDENTIALITY

6. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the present submission is classified as “confidential” as it refers to information with the same classification. A public redacted version will be filed in due course.

III. PROCEDURAL BACKGROUND

7. On 18 July 2024, Trial Chamber V (the “Chamber”) issued a decision setting a procedural calendar for the potential sentencing proceedings. In particular, the Chamber (i) requested to file any requests to present additional evidence for potential sentencing by 6 September 2024, indicating the deadline of 13 September 2024 for any responses thereto; (ii) invited the participants to file their written submissions relevant to potential sentencing by 13 December 2024; (iii) and scheduled a hearing under article 76(2) of the Statute on 8 to 10 January 2025.²

8. On 6 September 2024, the Prosecution,³ the Defence for Mr Yekatom⁴ and the Defence for Mr Ngaïssona⁵ filed requests to present additional evidence for potential sentencing. On 13 September 2024, the Prosecution⁶ and the Defence for Mr Yekatom⁷ filed their respective responses. On 1 and 4 October 2024, respectively, after obtaining an extension of time,⁸ the

² See the “Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings” (Trial Chamber V), No. [ICC-01/14-01/18-2600](#), 18 July 2024.

³ See the “Prosecution’s Request to present Additional Evidence for potential Sentencing”, No. [ICC-01/14-01/18-2679-Conf](#), 6 September 2024.

⁴ See the “Yekatom Defence Request to Present Additional Evidence for Potential Sentencing”, No. [ICC-01/14-01/18-2678-Conf](#), 6 September 2024.

⁵ See the “Consolidated Ngaïssona Defence Request to Present Additional Evidence for Potential Sentencing and Request for an Extension of Time Pursuant to Regulation 35(2) to present testimonial evidence”, No. [ICC-01/14-01/18-2676-Conf-Red](#), 6 September 2024.

⁶ See the “Prosecution’s Response to the ‘Consolidated Ngaïssona Defence Request to Present Additional Evidence for Potential Sentencing and Request for an Extension of Time Pursuant to Regulation 35 (2) to present testimonial evidence’ (ICC-01/14-01/18-2676)”, No. [ICC-01/14-01/18-2688-Conf](#), 13 September 2024; and the “Prosecution’s Response to ‘Yekatom Defence Request to Present Additional Evidence for Potential Sentencing’ (ICC-01/14-01/18-2678-Conf)”, No. [ICC-01/14-01/18-2692-Conf](#), 13 September 2024.

⁷ See the “Yekatom Defence Response to the ‘Prosecution’s Request to present Additional Evidence for potential Sentencing’, 6 September 2024, ICC-01/14-01/18-2679-Conf”, No. [ICC-01/14-01/18-2693-Conf](#), 13 September 2024.

⁸ See the email from the Chamber of 5 September 2024 at 15:18; and the email from the Chamber of 10 September 2024 at 14:00.

Defence for Mr Ngaïssona and for Mr Yekatom filed requests to submit further additional evidence on sentencing.⁹ The Prosecution filed its responses on 14 and 15 October 2024.¹⁰

9. On 11 November 2024, the Chamber issued its decision on the admissibility of some of the items submitted by the Prosecution and the Defence teams.¹¹

IV. SUBMISSIONS ON POTENTIAL SENTENCING

10. The CLRV address, first, the principles and the relevant applicable legal framework in sentencing proceedings.

a. The sentencing principles and legal framework

11. The Appeals Chamber has recognised that articles 76, 77 and 78 of the Statute and rules 145, 146 and 147 of the Rules, read together with the underlying objectives of the Preamble of the Statute, form a comprehensive scheme for the determination and imposition of a sentence.¹²

12. The primary objectives of sentencing have been recognised as retribution – as an expression of the international community’s condemnation of the crimes – and deterrence, the latter meaning that “*a sentence should be adequate to discourage a convicted person from recidivism (specific deterrence), as well as to ensure that those who would consider committing similar crimes will be dissuaded from doing so (general deterrence)*”.¹³

⁹ See the “Ngaïssona Defence request to submit additional evidence on sentencing through Rule 68(2)(b) – D30-4321”, No. [ICC-01/14-01/18-2713-Conf](#), 1 October 2024; the “Second Yekatom Defence Request to Present Additional Evidence for Potential Sentencing”, No. [ICC-01/14-01/18-2718-Conf](#), 4 October 2024; and the “Third Yekatom Defence Request to Present Additional Evidence for Potential Sentencing”, No. [ICC-01/14-01/18-2720-Conf](#), 4 October 2024.

¹⁰ See the “Prosecution’s Response to ‘Ngaïssona Defence request to submit additional evidence on sentencing through Rule 68(2)(b) – D30-4321’ (ICC-01/14-01/18-2713-Conf)”, No. [ICC-01/14-01/18-2726-Conf](#), 14 October 2024; and the “Prosecution’s Response to ‘Second Yekatom Defence Request to Present Additional Evidence for Potential Sentencing’ (ICC-01/14-01/18-2718-Conf)”, No. [ICC-01/14-01/18-2727-Conf](#), 15 October 2024.

¹¹ See the “Decision on the Requests to Present Additional Evidence for Potential Sentencing” (Trial Chamber V), No. [ICC-01/14-01/18-2733-Conf](#), 11 November 2024.

¹² See the “Judgment on the appeals of the Prosecutor and Mr Thomas Lubanga Dyilo against the ‘Decision on Sentence pursuant to Article 76 of the Statute’” (Appeals Chamber), No. [ICC-01/04-01/06-3122 A4 A6](#), 1 December 2014, paras. 32-35 (the “*Lubanga* Appeal Sentencing Judgment”). See also the “Sentencing judgment” (Trial Chamber VI), No. [ICC-01/04-02/06-2442](#), 7 November 2019, paras. 8-10 (the “*Ntaganda* Sentencing Judgment”); and the “Sentence” (Trial Chamber IX), No. [ICC-02/04-01/15-1819-Red](#), 6 May 2021, para. 50 (the “*Ongwen* Sentencing Judgment”).

¹³ See the “Decision on Sentence pursuant to Article 76 of the Statute” (Trial Chamber III), No. [ICC-01/05-01/08-3399](#), 21 June 2016, paras. 10-11 (the “*Bemba* Sentencing Judgment”); and the “Sentencing Judgment” (Trial Chamber X), No. [ICC-01/12-01/18-2662](#), 20 November 2024, para. 16 (the “*Al Hassan* Sentencing Judgment”).

13. The CLRV further underline that the Court’s legal framework does not contain specific sentencing ranges based on the crimes or the modes of liability recognised, nor a mandatory minimum or maximum.¹⁴

14. What constitutes an “appropriate” sentence flows from the criteria mentioned in article 78(1) of the Statute and rule 145 of the Rules, which set out the legal requirements for its determination. In order to rule on the appropriate sentence, the Chamber must, first, identify the relevant factors in accordance with article 78(1) of the Statute and rules 145(1)(c) and 145(2) of the Rules, and, then, weigh and balance all such factors in accordance with rule 145(1)(b) of the Rules,¹⁵ ultimately rendering a sentence that is proportionate to the crime and the culpability of the convicted person.¹⁶ The weight given to an individual factor and the balancing of all relevant factors in arriving at the sentence “*is at the core of a Trial Chamber’s exercise of discretion*”.¹⁷ According to the Appeals Chamber, certain factors referred to in the different relevant provisions may be considered in more than one of the categories; what is important is not in which category a given factor is placed, but rather that the Chamber identifies all the relevant factors and gives them reasonable weight, avoiding double counting.¹⁸

15. As to the evidence that can be relied upon, article 76(1) of the Statute provides that the Chamber ought to take into account the evidence presented at and the submissions made during the trial that are relevant to the sentence. In this regard, the CLRV underline that the evidence presented at trial, pertaining especially to the harm suffered by the Victims and the impact of the crimes on them, their families, and their communities, is of acute relevance in the context of the sentencing proceedings, as expressly dictated by the terms of rule 145(1)(c) of the Rules.

16. Moreover, article 78(3) of the Statute provides that, when a person has been convicted of more than one crime, the Chamber shall pronounce a sentence for each crime, as well as a joint sentence.

¹⁴ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 12.

¹⁵ See *e.g.* the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 50.

¹⁶ See the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, para. 40; and the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 51.

¹⁷ See the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, para. 43; the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 50; and the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 12.

¹⁸ See the “Judgment on the appeals of the Prosecutor, Mr Jean-Pierre Bemba Gombo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled ‘Decision on Sentence pursuant to Article 76 of the Statute’” (Appeals Chamber), No. [ICC-01/05-01/13-2276-Red A6 A7 A8 A9](#), 8 March 2018, para. 4 (the “*Bemba et al.* Appeal Sentencing Judgment”); the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 55; and the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, para. 66.

17. Having underlined the principles and practice relevant for sentencing, the CLRV address the evaluation of the criteria of the gravity of the crimes.

b. The gravity of the crimes

18. According to the jurisprudence of the Court, gravity is a principal consideration in the imposition of a sentence.¹⁹ It is “*generally measured in abstracto, by assessing the constitutive elements of the crime and the modes of liability in general terms, and in concreto, by assessing the particular circumstances of the case looking at the degree of harm caused by the crime and the culpability of the perpetrator*”.²⁰ As recalled by Trial Chamber IX in the *Ongwen* case, the assessment of gravity “*must take into account both the gravity of the crime (including the particular act fulfilling its elements) and also the gravity of the convicted person’s culpable conduct (in particular the conduct constituting the elements of the relevant mode of liability)*”.²¹ Trial Chamber VI in the *Ntaganda* case also underlined that “[d]espite being the most serious crimes of concern to the international community, in abstracto not all crimes under the Statute are necessarily of equivalent gravity and the Chamber must weigh each of them, distinguishing, for example, between crimes against persons and crimes targeting property”.²²

19. Furthermore, Trial Chamber VI in the *Ntaganda* case concluded that, as long as they relate to the elements of the offence and mode(s) of liability, the factors stipulated in rule 145(1)(c) of the Rules are to be considered in the evaluation of the gravity, including the extent of the damage produced, the harm caused to the Victims and their families, the nature of the unlawful behaviour and the means employed to execute the crime, and/or the circumstances of manner, time and location, as well as the nature and degree of participation of the convicted person in the commission of the crime and his or her degree of intent.²³

i. The gravity of the crimes, i.e. the particular circumstances of the acts constituting the elements of the offence

20. The CLRV posit that the number and diversity of the offences, the number of participating Victims in this case, together with the cruelty and brutality in which the attacks

¹⁹ See e.g., the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 52; and the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 14.

²⁰ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, paras. 11, 14; the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, paras. 40, 62; and the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 52.

²¹ See the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 52. See also the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 16.

²² See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 14 (footnotes omitted).

²³ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 16; and the [Al Hassan Sentencing Judgment](#), *supra* note 13, para. 22.

and ensuing crimes were committed, are highly illustrative of the grave nature of the conduct of the Accused, whether assessed under the umbrella of the gravity of the crimes or as aggravating circumstances.

21. In this sense, the CLRV recall that concurrence of analogous crimes against humanity and war crimes is permissible, considering that both sets of offenses protect different interests, either in times of armed conflict for the war crimes, or where there is a widespread or systematic attack on a civilian population for the crimes against humanity.²⁴ Consequently, and in light of the fact that both Accused have been charged with analogous crimes against humanity and war crimes for similar conduct,²⁵ the CLRV submit that gravity is reflected in the serious corresponding violations of the Victims' distinct interests and should thus be acknowledged in the Chamber's assessment regarding sentencing.

22. The CLRV discuss *infra* some of the crimes charged against Mr Yekatom and Mr Ngaïssona, which bear a particular gravity in light of their impact on the Victims and the consequences of which should be taken into account in determining the appropriate sentence.²⁶

i) Directing an attack against the civilian population

23. In the sentence imposed in the *Ongwen* case, Trial Chamber IX noted that “*the war crime of attack against the civilian population as such [...] violates the principle of distinction, which is at the core of international humanitarian law. The purpose of this principle, and of the incrimination of intentional attacks on civilians in the Statute, is to protect lives and to avoid the suffering of individuals not taking a direct part in hostilities during an armed conflict*”.²⁷ The CLRV recall that the crime does not require a result in terms of infliction of an actual harm on civilians.²⁸ The Appeals Chamber, however, concluded that “*where actual harm or death does arise as a consequence of the unlawful attack(s) on civilians, a trial chamber is not precluded from considering that actual harm or death in its determination of an appropriate sentence provided that it is sufficiently linked to the crime of intentionally directing attacks*

²⁴ See the “Trial Judgment” (Trial Chamber IX), No. [ICC-02/04-01/15-1762-Red](#), 4 February 2021, paras. 2818-2821.

²⁵ See the “Public Redacted Version of the ‘Closing Brief on behalf of Victims of Other Crimes’, No. ICC-01/14-01/18-2734-Conf, 15 November 2024”, No. [ICC-01/14-01/18-2734-Red](#), 22 November 2024 (the “CLR V Closing Brief”), paras. 194-195.

²⁶ *Idem*, paras. 101-159.

²⁷ See the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 148.

²⁸ See the “Judgment on the appeal of Mr Bosco Ntaganda against the decision of Trial Chamber VI of 7 November 2019 entitled ‘Sentencing judgment’” (Appeals Chamber), No. [ICC-01/04-02/06-2667-Red A3](#), 30 March 2021, para. 101 (the “*Ntaganda* Appeal Sentencing Judgment”); and the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 149.

*against civilians, was objectively foreseeable by the convicted person and the findings related to this consequence were established beyond reasonable doubt”.*²⁹

24. In the present case, the attacks in Bangui and Bossangoa on 5 December 2013, as well as all the other attacks in Mbaïki and along the PK9-Mbaïki axis, did inflict actual – and extensive – harm on the civilian population, including multiple deaths, as described in the Closing Brief.³⁰ The harm caused by said attacks should be considered by the Chamber when addressing the gravity of the crimes, or as an aggravating circumstance.³¹

ii) Persecution

25. Trial Chamber X in the *Al Hassan* case recently assessed the gravity *in abstracto* of the crime of persecution, and concluded that it constitutes, “*in and of itself, one of the most serious crimes against humanity, as it amounts to a denial of fundamental rights of one or more persons by virtue of their belonging to a particular group or collectively*”.³² The prohibition of this crime, found in article 7(1)(h) of the Statute, “*is intended to protect the right of all individuals not to be discriminated against on the basis of political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognised as impermissible under international law*”.³³

26. In the present case, the Muslim civilian population was targeted in Bangui, Mbaïki, along the PK9-Mbaïki axis, Bossangoa, and at the Yamwara school on ethnic, religious and/or political grounds.³⁴ This anti-Muslim animus, which was known and shared by the Accused,³⁵ brought the Anti-Balaka to specifically target the Muslim civilians, and to deprive them of several fundamental rights, including their rights to life, liberty, mental and bodily integrity, dignity, and religious freedom,³⁶ thereby making the gravity of this crime very high in the specific circumstances of the case.

²⁹ See the [Ntaganda Appeal Sentencing Judgment](#), *supra* note 28, para. 101.

³⁰ See the CLRV Closing Brief, *supra* note 25, paras. 104-108, 147-159, 206, 214-216, 229, 234-292.

³¹ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 85 (where Trial Chamber VI considered as an aggravating circumstance the fact that persons were killed as a result of attacks intentionally launched at civilians).

³² See the [Al Hassan Sentencing Judgment](#), *supra* note 13, para. 70. See also the jurisprudence of the *ad hoc* tribunals cited by Trial Chamber X at *ibid.*, where the crime of persecution has been considered as “*inherently very serious*” and warranting a severe penalty.

³³ See the [Al Hassan Sentencing Judgment](#), *supra* note 13, para. 70.

³⁴ See the CLRV Closing Brief, *supra* note 25, paras. 84-100, 108, 123, 143, 159.

³⁵ See the “Public redacted version of ‘Prosecution’s Closing Brief’, ICC-01/14-01/18-2738-Conf, 15 November 2024”, No. [ICC-01/14-01/18-2738-Red](#) (the “Prosecution’s Closing Brief”), paras. 595, 686-687, 740-741; and the CLRV Closing Brief, *supra* note 25, paras. 175, 189-193.

³⁶ See the CLRV Closing Brief, *supra* note 25, paras. 84-100, 108, 123, 143, 159; and the Prosecution’s Closing Brief, *supra* note 35, para. 597.

iii) Displacement, forcible transfer and deportation

27. The displacement and forcible transfer of civilian population are very serious crimes that aim to protect the right of civilians to remain in their homes and communities and not to be displaced without reason.³⁷

28. Said crimes had the effect of dislocating vast – if not entire – Muslim communities in Bangui, in towns and villages along the PK9-Mbaïki axis, and in Bossangoa, and forcing them to resettle in other parts of the CAR or in neighbouring countries.³⁸ As underlined in the Closing Brief, these crimes had long-term effects on the Victims, as the vast majority of them have not been able to return to their places of origin to this day, more than 10 years after the events.³⁹ This character of the displacement should thus be considered when assessing the gravity of the crime or the extent of the harm suffered by the Victims, coupled with the fact that they suffered a wide-range of traumas over an extended period, namely at the time of their displacement,⁴⁰ during their stay at the temporary places of refuge,⁴¹ at the time of their evacuation from their first place of refuge,⁴² and at their final destinations.⁴³

iv) Murder

29. Trial Chamber III in the sentence imposed in the *Bemba* case regarding gravity found that : “*murder deprives the direct victim of life, the ultimate harm. Relatives and dependants left behind are not only deprived of the direct victim, an impact that cannot be underestimated, but may also be directly injured – physically and/or psychologically – as a result of the murder. [...] Persons who relied on the direct victim for support, whether financial, physical, emotional, psychological, moral, or otherwise, were also affected. The impact rippled through the relevant communities. [...] For some victims, the impact of the murders was chronic and severe*”.⁴⁴ Chambers also recognised that “[m]urder is inherently one of the most serious crimes”.⁴⁵

30. The terrible memories still vivid in the Victims’ minds about the loss of their family members and the impossibility to bury them properly, together with the associated long-lasting

³⁷ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, paras. 158, 163.

³⁸ See the CLRV Closing Brief, *supra* note 25, paras. 105-106, 125-127, 132, 148, 152

³⁹ *Idem*, paras. 38-46, 234-287.

⁴⁰ *Idem*, paras. 239-248.

⁴¹ *Idem*, paras. 249-258.

⁴² *Idem*, paras. 259-276.

⁴³ *Idem*, paras. 277-287.

⁴⁴ See the [Bemba Sentencing Judgment](#), *supra* note 13, paras. 29-31.

⁴⁵ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 44; and the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 153.

psychological effects, should be reflected in the Chamber's determination of the sentence.⁴⁶ The evidence presented at trial has also demonstrated the barbarity and cruelty of some of the murders,⁴⁷ [REDACTED], as described in the Closing Brief.⁴⁸

v) Pillaging and destruction of the adversary's property

31. The CLRV recall the extensive destruction and pillaging of Muslims' property and religious buildings/mosques perpetrated in Bossangoa, which covered literally everything that was owned by Muslim civilians, including their houses, vehicles, shops, and merchandise.⁴⁹

32. Such extensive loss of property not only robbed Muslims of their resources, tools, and living places, but also heavily impacted the future of their families, in particular their children.⁵⁰ Moreover, the brutality of the attacks and the abrupt and definitive damage the Victims encountered created extreme anxiety, leaving them helpless and deeply traumatised. Consequently, the impact of the harm suffered as a result of the crimes of pillaging and destruction of property should also be duly reflected in the gravity assessment when deciding on the appropriate sentence.

vi) Torture, other inhuman acts, and cruel treatment

33. The CLRV underline that "*torture is a particularly heinous act, violating the right not to be subjected to torture recognised in customary and conventional international law and as a norm of ius cogens*"⁵¹, and that "*the gravity of the crime of torture is in the abstract very high*".⁵²

34. In this regard, the traumatic events suffered by the Victims of the Yamwara school incident, where the abductees were continuously and severely beaten, threatened with death and

⁴⁶ See e.g., the CLRV Closing Brief, *supra* note 25, paras. 209-211, 215-216, 219-220.

⁴⁷ The CLRV refer to the details of the murder of Saint Cyr Lapo N'Gomat (CLRV Closing Brief, *supra* note 25, para. 113) and of the second Deputy Mayor Djido Saleh (CLRV Closing Brief, *supra* note 25, para. 138).

⁴⁸ See e.g., the CLRV Closing Brief, *supra* note 25, paras. 210-211, 217.

⁴⁹ *Idem*, paras. 148, 232.

⁵⁰ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 137, where Trial Chamber VI described the impact of the destruction of the adversary's property as follows: "[a]s far as destroying the adversary's property is concerned, when destruction of property concerns houses, the perpetrators do not merely destroy structures, but they also destroy people's homes – a place where the victims ought to have been able to feel shielded and safe. Destruction of houses may therefore be a crime against property, but it does not merely impact that property; the crime also deprives civilians of a private place, a shelter and a sense of security".

⁵¹ See the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 157; and the [Al Hassan Sentencing Judgment](#), *supra* note 13, para. 44.

⁵² See the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 157; and the [Al Hassan Sentencing Judgment](#), *supra* note 13, para. 44.

weapons, forced to undress and kneel (in front of others), with the brutality of the torture leading to the death of one of the captives, illustrate the gravity of the conduct.⁵³

vii) Rape and sexual and gender-based violence

35. With regard to the gravity of rape *in abstracto*, Trial Chamber VI in the *Ntaganda* case agreed with the jurisprudence of other international tribunals describing rape as “one of the worst sufferings a human being can inflict upon another”⁵⁴ and as “a despicable act which strikes at the very core of human dignity and physical integrity”.⁵⁵ The CLRV further emphasise that the “Statute and the Rules accord a special status to sexual violence crimes, crimes against children, and the victims thereof. During the drafting process of the Rome Statute, the especially grave nature and consequences of sexual violence crimes, in particular against children, were recognised”.⁵⁶

36. In this regard, the CLRV refer to the particularly repugnant circumstances in which one of the Victims was raped by an Anti-Balaka [REDACTED],⁵⁷ [REDACTED].⁵⁸ Moreover, said crime was committed in an extremely coercive and threatening environment, [REDACTED].⁵⁹ In addition, another Victim [REDACTED] was raped [REDACTED].⁶⁰ Lastly, the CLRV refer to the devastating physical and psychological consequences endured by the Victims of these crimes.⁶¹

viii) Directing an attack against a building dedicated to religion

37. While the Court’s practice has indicated that crimes against a building dedicated to religion as crimes against property are generally of lesser gravity than crimes against life and/or body integrity, the CLRV posit that said crimes have to be assessed in the broader context of the attack against the Muslim population and the persecutory intent of the Accused.⁶² Indeed,

⁵³ See the CLRV Closing Brief, *supra* note 25, paras. 111-113, 115-117, 120, 208-211, 217-218.

⁵⁴ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 96. See also ICTY, *Kunarac et al.*, Case No. IT-96-23-T & IT-96-23/1-T, [Judgment](#) (Trial Chamber), 22 February 2001, para. 655.

⁵⁵ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 96. See also ICTY, *Delalić et al.*, Case No. IT-96-21-T, [Judgement](#) (Trial Chamber), 16 November 1998, para. 495.

⁵⁶ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 95 (footnotes omitted).

⁵⁷ P-2462: T-059 [ENGL], p. 27, lines 8-13 (Conf).

⁵⁸ P-2462: T-059 [ENGL], p. 28, lines 1-5 (Conf); [CAR-OTP-2127-9468](#); and the CLRV Closing Brief, *supra* note 25, para. 155.

⁵⁹ See the CLRV Closing Brief, *supra* note 25, para. 155.

⁶⁰ *Idem*, paras. 156, 206. See also, P-2657: T-104 [ENGL], p. 23, line 11 to p. 24, line 1 (Conf).

⁶¹ [REDACTED], 292. See also, P-2462: T-059 [ENGL], p. 24, lines 16-25 (Conf); p. 27 line 3 to p. 28, line 3 (Conf); [CAR-OTP-2127-9467](#).

⁶² See the “Judgment and Sentence” (Trial Chamber VIII), No. [ICC-01/12-01/15-171](#), 27 September 2016, para. 77 (the “*Al Mahdi* Judgment and Sentence”); and the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 136.

these crimes are “*inherently grave*” and have “*the potential to cause severe consequences for the victims*”,⁶³ as it is the case at hand.

38. In this regard, the CLRV refer to the community harm suffered by the Muslims due to the destruction of the mosques,⁶⁴ which led to the loss of religiosity felt by the Muslim community.⁶⁵ This particular harm was exacerbated by the fact that “*in CAR, civilians sought refuge in places of worship and cultural significance*” during and after the attacks, and that “*where these buildings continued to be targeted, this would have led to an accumulation of stress and lack of sense of safety*”.⁶⁶

39. The mosques were also attacked and destroyed specifically to target the Muslim civilians. In that regard, Trial Chamber VIII in the *Al Mahdi* case concluded that “*the discriminatory religious motive invoked for the destruction of the sites is undoubtedly relevant to its assessment of the gravity of the crime*”.⁶⁷

ii. *The gravity of the culpable conduct, i.e. the particular circumstances of the conduct constituting the elements of the modes of liability*

40. Mr Yekatom is charged under the modes of liability of committing the crimes jointly with another or through another under article 25(3)(a) of the Statute, and ordering the crimes under article 25(3)(b) of the Statute.⁶⁸ In turn, Mr Ngaïssona is charged with facilitating the commission of the crimes by aiding and abetting or otherwise assisting in their commission under article 25(3)(c) of the Statute, and with contributing in any other way to the commission of the crimes by a group of persons acting with a common purpose under article 25(3)(d)(i) and (ii) of the Statute.⁶⁹

41. In this regard, the Appeals Chamber held “*that the Statute differentiates between two principal forms of liability, namely liability as a perpetrator and liability as an accessory. In the view of the Appeals Chamber, the distinction is not merely terminological; making this distinction is important because, generally speaking and all other things being equal, a person who is found to commit a crime him- or herself bears more blameworthiness than a person who*

⁶³ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 136.

⁶⁴ See the CLRV Closing Brief, *supra* note 25, paras. 293-298.

⁶⁵ *Idem*, para. 297.

⁶⁶ See **P-0925**: “Mental Health Outcomes of Trauma in Central African Republic: Child Soldiering, Forcible Displacement, Rape and Sexual Violence”, [CAR-OTP-2127-6805-PRV](#), at 6828.

⁶⁷ See the [Al Mahdi Judgment and Sentence](#), *supra* note 62, para. 81.

⁶⁸ See the “Corrected version of ‘Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona’” (Pre-Trial Chamber II), No. [ICC-01/14-01/18-403-Corr-Red](#), 11 December 2019.

⁶⁹ *Ibid.*

contributes to the crime of another person or persons".⁷⁰ The Appeals Chamber, however, also stated that "*those in command who are removed from the immediate location and may be unfamiliar with the specifics of the crimes are not necessarily less culpable than the direct perpetrators*".⁷¹ What matters, in the end, is that "*the degree of participation of an individual must be assessed on a case-by-case basis, taking into account all relevant facts in a manner that properly reflects the culpability of the individual*".⁷²

42. In the case at hand, the CLRV submit that both Mr Yekatom's and Mr Ngaïssona's degree of culpability has to be considered substantial, in light of the essential contribution that both Accused made to the commission of the entirety of the crimes by virtue of their positions during the time covered by the charges.⁷³

43. Regarding specifically Mr Yekatom, as also described in the Closing Brief, he commanded a group of approximately 3,000 elements, including 200 FACA. He made an essential contribution to the commission of the crimes by structuring, training, and equipping his Anti-Balaka elements,⁷⁴ preparing the attacks and advances, participating in and leading his group during the execution of the attacks,⁷⁵ and issuing orders to his elements.⁷⁶

44. Regarding Mr Ngaïssona, he was one of the masterminds of the plan to reclaim power in the CAR, oust Djotodia and the Seleka regime using the Anti-Balaka forces, and part of the Anti-Balaka's leadership.⁷⁷ As such, Mr Ngaïssona provided an essential contribution to the commission of the crimes by structuring the Anti-Balaka,⁷⁸ financing their activities, including for the purchase of weapons,⁷⁹ issuing instructions to the elements in the field,⁸⁰ and liaising with key Anti-Balaka members.⁸¹

⁷⁰ See the "Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction" (Appeals Chamber), No. [ICC-01/04-01/06-3121-Red A5](#), 1 December 2014, para. 462. See also the [Al Mahdi Judgment and Sentence](#), *supra* note 62, para. 58.

⁷¹ See the [Ntaganda Appeal Sentencing Judgment](#), *supra* note 28, para. 45.

⁷² *Idem*, para. 43.

⁷³ See *e.g.*, the [Al Mahdi Judgment and Sentence](#), *supra* note 62, para. 84; and the [Al Hassan Sentencing Judgment](#), *supra* note 13, paras. 55-56.

⁷⁴ See the CLRV Closing Brief, *supra* note 25, para. 172.

⁷⁵ *Idem*, para. 173.

⁷⁶ *Idem*, para. 174.

⁷⁷ *Idem*, para. 176.

⁷⁸ *Idem*, paras. 178-184.

⁷⁹ *Idem*, paras. 185-186.

⁸⁰ *Idem*, para. 187.

⁸¹ *Idem*, para. 188.

45. When committing the wrongdoing, both Accused had control over the crimes by virtue of their essential contribution and the requisite intent and knowledge pursuant to article 30 of the Statute.

46. Therefore, and despite the fact that the Accused are charged with different modes of liability, the essential contributions made by both, without which the crimes could not have been committed in the same way, justify the imposition of the same sentence.

iii. The factors under rule 145(1)(c) of the Rules relating to the elements of the offence and mode(s) of liability

i) The extent of the damage caused to the Victims and their families

47. Considering the limited number of pages, the CLRV recall in full their submissions in the Closing Brief about the harm suffered by the Victims participating in the case.⁸²

48. The extent of the harm suffered by Victims was tremendous and is still felt to this day. Not only did they lose their lives⁸³ or suffered grave injuries, but they also lost their houses and resources to support their families. The evidence at trial has shown that thousands of persons were forced to flee from Bangui, Bossangoa, Mbaïki, and from the villages and towns along the PK9-Mbaïki axis as a result of the crimes committed by the Accused.⁸⁴ Thousands of houses belonging to Muslim civilians were either pillaged or destroyed.⁸⁵ The harm suffered by the Victims did not stop after the commission of the crimes, but continued for years, up to this day in many instances,⁸⁶ with many Victims still finding themselves in IDP or refugee camps in terrible living conditions, without any prospect of a normal life for them and their children.⁸⁷

49. The extent of the damage caused by the crimes went beyond each and every Victim to reach entire Muslim communities in Bangui, Mbaïki, along the PK9-Mbaïki axis, and in Bossangoa and its surroundings. Traditions were unsettled, ways of life and family cohesion were affected. Traditional mourning rituals could not be fulfilled in many cases, including the possibility for numerous Victims to properly bury their loved ones.⁸⁸

50. Concerning rapes and SGBV crimes, the CLRV submit that the Chamber is entitled to consider uncharged sexual violence under rule 145(1)(c) of the Rules as a relevant factor in the

⁸² *Idem*, paras. 196-304 (Section VIII. Impact of the crimes upon victims and their communities).

⁸³ *Idem*, paras. 103-104, 120, 138, 147.

⁸⁴ *Idem*, paras. 105, 125.

⁸⁵ *Idem*, paras. 129 (fn 297), 133 (fn 331-332), and 148 (fn 392).

⁸⁶ *Idem*, para. 136.

⁸⁷ *Ibid.*

⁸⁸ *Idem*, para. 219.

determination of the sentence.⁸⁹ In this regard, they recall their submission in the Closing Brief on the extent of SGBV crimes as reported by the Victims in their application forms,⁹⁰ as well as the specific circumstances of the commission of the two instances of rape charged.⁹¹

ii) *The nature of the unlawful behaviour and the means employed to execute the crime and/or the circumstances of manner, time and location*

51. The CLRV recall the extreme violence of the attacks committed against the Muslim civilians in multiple locations, over an extended period of time, inside the Victims' homes, and often in the presence of others, including family members. This extreme violence is also illustrated by the weapons used by the Anti-Balaka during some of the attacks, including rocket-propelled grenades, Kalashnikovs, hunting rifles, and machetes.⁹² The particular cruelty in the commission of some of the crimes, including the murder of Saint Cyr Lapo N'Gomat⁹³ and Djido Saleh,⁹⁴ ought to be taken into account in assessing the gravity of the crimes or as an aggravating factor.

52. The circumstances surrounding the crimes committed at the Yamwara school should also be taken into account. Indeed, the environment created by the Anti-Balaka in the commission of said crimes was specifically designed to increase the Victims' suffering, [REDACTED] under the continuous threat of being killed themselves.⁹⁵ The inhumane environment created by the Anti-Balaka at the *École de la Liberté* in Bossangoa, [REDACTED],⁹⁶ should also be considered.

iii) *The nature and degree of participation of the convicted person in the commission of the crime and his or her degree of intent*

53. The CLRV refer to their submissions *supra*.⁹⁷ Additionally, they underline that Mr Yekatom ordered and led operations to attack Muslim civilians, and that his group played an integral role in said attacks.⁹⁸ He was also present on the ground in the areas under his

⁸⁹ See the "Decision on Sentence pursuant to Article 76 of the Statute" (Trial Chamber I), No. [ICC-01/04-01/06-2901](#), 10 July 2012, para. 67.

⁹⁰ See the CLRV Closing Brief, *supra* note 25, para. 157.

⁹¹ *Idem*, para. 156.

⁹² See the Prosecution's Closing Brief, *supra* note 35, paras. 492, 566, 580, 586, 590.

⁹³ See the CLRV Closing Brief, *supra* note 25, para. 113.

⁹⁴ *Idem*, para. 138.

⁹⁵ *Idem*, paras. 113, 208 [REDACTED], [REDACTED].

⁹⁶ *Idem*, para. 154.

⁹⁷ See *supra*, paras. 40-46.

⁹⁸ See the CLRV Closing Brief, *supra* note 25, para. 173.

control, and specifically set an example for his elements through his own commission of indiscriminate acts of brutality, which promoted similar violent conduct throughout his group.⁹⁹

c. Aggravating circumstances

54. Rule 145(2)(b) of the Rules provides a non-exhaustive list of circumstances that can be considered as aggravating, which includes, *inter alia*, (i) the abuse of power of official capacity (rule 145(2)(b)(ii)); (ii) the commission of the crime where the victim is particularly defenceless (rule 145(2)(b)(iii)); (iii) the commission of the crime with particular cruelty or where there were multiple victims (rule 145(2)(b)(iv)); and (iv) the commission of the crime for any motive involving discrimination on any of the grounds referred to in article 21(3) of the Statute (rule 145(2)(b)(v)).

55. Any aggravating circumstance must be proven beyond reasonable doubt.¹⁰⁰ The jurisprudence of the Court further specifies that any aggravating circumstance must relate to the crimes on which the conviction is based or to the convicted person, and there must be a sufficiently proximate link between the factor and the crimes that form the basis of the conviction.¹⁰¹ Conduct after the crime may amount to an aggravating factor, in limited circumstances, and provided that a sufficiently proximate link is established with the crime for which the accused was convicted.¹⁰²

56. Pursuant to rule 145 of the Rules, the CLRV request the Chamber to take into account the following aggravating circumstances in its determination of an appropriate sentence:

i. The particular defencelessness of the Victims

57. The age and gender of some of the Victims made them particularly defenceless.¹⁰³ Children and people aged over 70 years old were the most affected by the crimes, with women and girls being more affected than men and boys.¹⁰⁴ In this regard, the displacement and forcible

⁹⁹ *Ibid.*

¹⁰⁰ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 17; and the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 53.

¹⁰¹ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 18; the [Bemba Sentencing Judgment](#), *supra* note 13, para. 18; the [Al Mahdi Judgment and Sentence](#), *supra* note 62, para. 73; and the [Bemba et al. Appeal Sentencing Judgment](#), *supra* note 18, paras. 115, 151.

¹⁰² See the [Bemba et al. Appeal Sentencing Judgment](#), *supra* note 18, paras. 115-116; and the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 19.

¹⁰³ See the [Ntaganda Sentencing Judgment](#), *supra* note 12, paras. 121, 126, 154. See also the “Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled ‘Sentence’” (Appeals Chamber), No. [ICC-02/04-01/15-2023 A2](#), 15 December 2022, para. 360.

¹⁰⁴ See the CLRV Closing Brief, *supra* note 25, para. 25.

transfer affected entire Muslim communities, families, and individuals who had often already been displaced before being forced to flee again, and who were already experiencing extremely poor living conditions.¹⁰⁵ Elderly and very young children from the same family were often separated during the evacuations, which happened swiftly, with people running for their lives.¹⁰⁶ There were children of all ages who, together with their parents, had to seek refuge elsewhere in harsh living conditions, with limited shelter and food for a prolonged period of time.¹⁰⁷

58. The CLRV further refer to the rapes committed during the attack in Bossangoa and submit that young, vulnerable and unarmed women were [REDACTED] particularly defenceless.¹⁰⁸

ii. The high number of Victims

59. The jurisprudence of international tribunals recognises that a particularly large number of victims can be an aggravating circumstance in relation to the sentence.¹⁰⁹

60. Considering the high number of Victims in the present case, with several thousands of individuals and families directly harmed by the crimes Mr Yekatom and Mr Ngaïssona committed, this element ought to be taken into account as an aggravating circumstance. In this regard, it is worth highlighting that (i) thousands of displaced Muslims arrived in Mbaïki and were subsequently forced to take refuge elsewhere;¹¹⁰ (ii) approximately 3,000 Muslims left Mbaïki for other locations;¹¹¹ (iii) approximately 1,500 Muslims' houses had been destroyed in Bossangoa by the end of January 2014;¹¹² (iv) virtually the entire Muslim population of Bossangoa, which comprised 8,000 civilians,¹¹³ had been forced to evacuate the town;¹¹⁴ (v) at the end of December 2013, nearly 100,000 internally displaced persons had sought refuge in Bangui;¹¹⁵ (vi) at least 18 Muslim civilians were killed during the 5 December 2013 attack in

¹⁰⁵ *Idem*, paras. 234-287.

¹⁰⁶ *Idem*, paras. 134, 264, 267.

¹⁰⁷ *Idem*, paras. 277-287.

¹⁰⁸ *Idem*, paras. 155-157. See also, the [Bemba Sentencing Judgment](#), *supra* note 13, paras. 41-43.

¹⁰⁹ See ICTR, *Ndahimana*, Case No. ICTR-01-68-A, [Judgement](#) (Appeals Chamber), 16 December 2013, para. 231; ICTR, *Ndindabahizi*, Case No. ICTR-01-71-A, [Judgement](#) (Appeals Chamber), 16 January 2007, para. 135.

¹¹⁰ See the CLRV Closing Brief, *supra* note 25, para. 126.

¹¹¹ *Idem*, para. 132.

¹¹² *Idem*, para. 148.

¹¹³ *Idem*, para. 144.

¹¹⁴ *Idem*, para. 152.

¹¹⁵ See the Prosecution's Closing Brief, *supra* note 35, para. 577.

Bossangoa,¹¹⁶ and (vii) at least 8 Muslim civilians were killed during the 5 December 2013 attack in Bangui by Mr Yekatom's group.¹¹⁷

61. Furthermore, the number of Victims participating in the case – 1,673 – demonstrates the extent of the victimisation suffered by the Muslim population in the CAR as a result of the crimes. Said number, however, is not entirely representative of the extent of the victimisation, since – as explained in the Closing Brief – only a limited number of persons applied to participate in the proceedings, and even a smaller number was authorised to do so.¹¹⁸

iii. *The abuse of power by and/or the official capacity of Mr Yekatom and Mr Ngaïssona in the commission of the crimes*

62. The CLRV submit that both Accused abused their power and official capacity within the meaning of rule 145(2)(b)(ii) of the Rules. As explained by the Appeals Chamber, the mere fact that a person commits a crime in a position of authority does not as such constitute an aggravating circumstance; however, “*a person who abuses or wrongly exercises power deserves a harsher sentence*”.¹¹⁹

63. Mr Ngaïssona held a high-level position in the Anti-Balaka organisation and used his influence and power to promote the anti-Muslim animus, instead of using it to prevent the escalation of the conflict. As the Prosecution rightly described it in its Closing Brief, Mr Ngaïssona's conduct impacted every aspect of the commission of the crimes, and affected the impetus and capacity of the Anti-Balaka to carry the criminal conduct.¹²⁰ While holding a ministerial position, Mr Ngaïssona mobilised the youth to strengthen Bozize's position,¹²¹ and as a member of the latter's inner circle, he continued to liaise with the youth, and contributed to financing the Anti-Balaka and coordinating their efforts for military actions.¹²² Despite being informed and aware of the violent targeting of the Muslim civilians during the Anti-Balaka operations, Mr Ngaïssona promoted those who participated in the attacks,¹²³ thereby declining to use his power and influence to prevent the further commission of the crimes. Mr Ngaïssona went further by impeding efforts by the CAR authorities and international forces to stem Anti-Balaka crimes.¹²⁴

¹¹⁶ *Idem*, paras. 601-624.

¹¹⁷ *Idem*, paras. 553-572.

¹¹⁸ See the CLRV Closing Brief, *supra* note 25, paras. 19-24.

¹¹⁹ See the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, para. 82.

¹²⁰ See the Prosecution's Closing Brief, *supra* note 35, paras. 14-15.

¹²¹ *Idem*, paras. 37-43.

¹²² *Idem* paras. 101-115, 127-131, 189-195, 246-258, 262-266.

¹²³ *Idem*, paras. 272-273.

¹²⁴ *Idem*, paras. 380-400.

64. Mr Yekatom had authority and power as the leader of his influential Anti-Balaka group¹²⁵ and abused this power, resulting in the commission of the crimes. He directly instructed his elements to kill Muslims and destroy their houses and mosques, resulting in the commission of the crimes.¹²⁶ Being aware of the commission of crimes against Muslim civilians, he celebrated the actions of his subordinates, instead of punishing them.¹²⁷ Mr Yekatom further abused his authority, as his orders and actions directly contributed to the mass displacement of Muslim civilians in the zones that came under his control since there were almost no Muslims left as they all fled.¹²⁸

iv. The discrimination on religious, ethnic and political grounds which subsumed the commission of the crimes

65. All crimes were committed with discriminatory intent within the meaning of rule 145(2)(b)(v) of the Rules, pursuant to a plan to target the Muslim population, who, based on their religious or ethnic affiliation, were perceived as collectively responsible for, complicit with, and/or supportive of the Seleka (on religious and political grounds).¹²⁹

66. While this factor is a constitutive element of the crime of persecution, and therefore cannot be taken into account for said crime, it should be considered by the Chamber for all other crimes as an aggravating circumstance.¹³⁰

d. The absence of mitigating circumstances

67. The Chamber has a considerable degree of discretion in assessing factors that could constitute a mitigating circumstance in accordance with rule 145(2)(a) of the Rules, and in deciding how much weight, if any, has to be accorded to any of them.¹³¹ Such assessment is made on a balance of probabilities and the Defence bears the burden of establishing the existence of such circumstances.¹³²

¹²⁵ *Idem*, paras. 460, 462, 476-478, 502, 512.

¹²⁶ *Idem*, paras. 417-418, 427, 439, 441, 443-444, 463, 502.

¹²⁷ *Idem*, paras. 442, 500-503.

¹²⁸ *Idem*, para. 447.

¹²⁹ For the crimes committed in Bangui and Boeïng: see *e.g.*, the CLR V Closing Brief, *supra* note 25, paras. 103, 107. For the crimes committed at the Yamwara school: see *e.g.*, the CLR V Closing Brief, *supra* note 25, paras. 111, 113, 117, 123. For the crimes committed along the PK9-Mbaïki axis: see *e.g.*, the CLR V Closing Brief, *supra* note 25, paras. 129-130, 142-143. For the crimes committed in Bossangoa: see *e.g.*, the CLR V Closing Brief, *supra* note 25, paras. 147-152, 158-159.

¹³⁰ See the [Ongwen Sentencing Judgment](#), *supra* note 12, para. 145; and the [Ntaganda Sentencing Judgment](#), *supra* note 12, para. 84

¹³¹ See the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, paras. 43 and 111.

¹³² See the “Decision on Sentence pursuant to article 76 of the Statute” (Trial Chamber II), No. [ICC-01/04-01/07-3484-tENG-Corr](#), 23 May 2014, paras. 33-34.

68. The CLRV submit that no mitigating circumstance applies in the cases of Mr Yekatom or Mr Ngaïssona. Even if, *arguendo*, the Chamber were to find the existence of mitigating circumstances, none of them would warrant any reduction of the length of the sentence that would be appropriate in light of the gravity of the crimes and the presence of several aggravating circumstances. However, the CLRV reserve their right to further develop on the mitigating circumstances eventually argued by the Accused in their sentencing submissions during the hearing scheduled on 8 to 10 January 2025.

e. The individual circumstances of the Accused

69. Individual circumstances which may be considered in sentencing include those not directly related to the crimes or potential culpable conduct, notably the age, education, or social and economic condition of the convicted person.¹³³

70. In this regard, the CLRV submit that nothing in the age, education, or social and economic condition of Mr Yekatom or Mr Ngaïssona warrants any specific weight in the assessment by the Chamber in relation to sentencing. Moreover, nothing in the Accused's individual circumstances appears to reduce the need for a high sentence, in light of the totality of the sentencing factors, including the seriousness of the crimes and the aggravating circumstances.

V. VIEWS AND CONCERNS EXPRESSED BY THE VICTIMS

71. During recent consultations, the vast majority of the Victims have indicated that both Accused should be sentenced to 30 years of imprisonment. Victims highlighted that their suffering and the long-lasting consequences of the crimes inflicted upon them, their families, and their communities warrant such a sentence. It would fairly reflect Mr Yekatom's and Mr Ngaïssona's culpability for the harm that they suffered and emphasise the extreme gravity of the crimes they committed. By listening to their views and legitimate needs for truth and justice, and sentencing both Accused to 30 years of imprisonment, the Chamber would give the Victims a voice and, therefore, help re-empower them.

¹³³ See the [Bemba et al. Appeal Sentencing Judgment](#), *supra* note 18, para. 283; the [Bemba Sentencing Judgment](#), *supra* note 13, para. 68; and the [Lubanga Appeal Sentencing Judgment](#), *supra* note 12, para. 64.

72. Victims also underlined that the Accused did not show any mercy or regret throughout the proceedings and as consequence, no mercy should be applied to them for the determination of their sentence.

73. Furthermore, Victims have indicated that they consider that the Accused made neither any sincere demonstration of remorse nor any expression of compassion towards them during the course of the trial, and that this element should be noted by the Chamber in its final determination of the sentence.

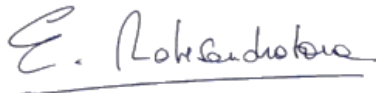
74. Finally, Victims considered that an exemplary sentence totalling 30 years of imprisonment would also serve as a deterrent, particularly in light of the still prevailing situation of relative conflict, insecurity and impunity in the CAR, and of the fact that other proceedings opened before the Court in the CAR Situation concluded with acquittal or non-confirmation of charges, rendering impossible for Victims to pursue their quest for justice and have their victimisation recognised in a court of law.

VI. CONCLUSION

75. For the foregoing reasons, the CLRV respectfully request the Trial Chamber to sentence Mr Yekatom and Mr Ngaïssona to 30 years of imprisonment.



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Common Legal Representatives Victims of Other Crimes

Dated this 16th day of December 2024

At The Hague (The Netherlands), Bangui (Central African Republic), La Rochelle (France) and Dakar (Senegal)