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PRE-TRIAL CHAMBER II

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

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR V. ALFRED YEKATOM***

Public

Public Redacted Version of “Warrant of Arrest for Alfred Yekatom”,
ICC-01/14-01/18-1-US-Exp, 11 November 2018

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

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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

Alfred YEKATOM

also known as “Alfred SARAGBA”, “ROMBHOT”, “RAMBO”, “RAMBOT”, “ROMBOT”, “RHOMBOT”, “ROMBO”, or “ROMBOHT”, a national of the Central African Republic (“CAR”), born on 23 January 1975 in Bimbo, reported to reside in Mbaiki, Pissa and/or Bimbo, former *caporal-chef* in the *Forces Armées Centrafricaines* (“FACA”), bearing the *matricule* number “2004-1-1718”, and a member of parliament (“MP”) in the CAR. His last passport number is “O00040426”.¹

I. Procedural History

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

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

- (i) murder (articles 7(1)(a) and 8(2)(c)(i) of the Statute);
- (ii) deportation or forcible transfer (article 7(1)(d) of the Statute) and displacement of civilian population (article 8(2)(e)(viii) of the Statute);
- (iii) imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute);
- (iv) torture (articles 7(1)(f) and 8(2)(c)(i) of the Statute) and cruel treatment (article 8(2)(c)(i) of the Statute);
- (v) enforced disappearance of persons (article 7(1)(i) of the Statute);
- (vi) mutilation (articles 8(2)(c)(i) and 8(2)(e)(xi) of the Statute);

¹ CAR-OTP-2017-0210; CAR-OTP-2039-0067; CAR-OTP-2062-0657, line 10160; CAR-OTP-2051-0479 at 0494; CAR-OTP-2092-1021 at 1023, para. 10.

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

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

- (vii) intentionally directing attacks against the civilian population (article 8(2)(e)(i) of the Statute);
- (viii) pillaging (article 8(2)(e)(v) of the Statute);
- (ix) enlistment of children under the age of 15 years (article 8(2)(e)(vii) of the Statute);
- (x) intentionally directing attacks against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute);
- (xi) destruction of the adversary's property (article 8(2)(e)(xii) of the Statute); and
- (xii) persecution (article 7(1)(h) of the Statute).⁴

3. On 5 November 2018, the Prosecutor informed the Chamber of the arrest and detention of Yekatom in the CAR, and requested the urgent issuance of the warrant of arrest for Yekatom.⁵

II. Jurisdiction and Admissibility

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

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

⁴ ICC-01/14-18-US-Exp, para. 36.

⁵ ICC-01/14-22-US-Exp.

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

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

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

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

6. **The Conflict and Armed Groups Involved.** Dissatisfied with the government of the then President François Bozizé, an armed movement by the name of “Seleka”,⁸ emerged around August 2012 in north-eastern CAR.⁹ Led by Michel Djotodia, the Seleka consisted of a coalition of several previously uncoordinated political factions and armed groups, predominantly composed of Muslims, which were formed years before to resist the government forces when Bozizé seized power in 2003. In the course of time also Sudanese and Chadian nationals joined the fighters.¹⁰ From late 2012 to early 2013, the Seleka advanced southwards towards the capital, Bangui, attacking police stations, occupying military bases, capturing various towns and regional capitals, and targeting those suspected to support François Bozizé.¹¹ Notwithstanding a cease-fire agreement signed on 11 January 2013 in Libreville, Gabonese Republic,¹² the Seleka captured Bangui on 24 March 2013 with the use of heavy weaponry, including mounted machine guns, mortars and rocket-propelled grenades.¹³ François Bozizé was forced into exile in the Republic of Cameroon (“Cameroon”) and Michel Djotodia proclaimed himself President of the CAR.¹⁴ Over the ensuing months, the Seleka forces,¹⁵ swelling approximately from 5,000 to 15,000-20,000 members,¹⁶ expanded their territorial control, suppressing resistance in the western regions associated with François Bozizé and his ethnic group Gbaya, and subjecting the civilian population, mainly non-Muslim, to attacks and atrocities,

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

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

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

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

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

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

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

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

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

including summary executions, rape and sexual violence, torture, arbitrary arrests and detention, looting and property destruction (burning down houses).¹⁷

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

8. By September 2013, Anti-Balaka groups were engaged in hostilities against the Seleka in western CAR, starting in Bossangoa, spreading east to Bouca and then south to Bossemptélé, Bossembélé and Boali.²⁵ Even though the Seleka movement was officially disbanded by Michel Djotodia by presidential decree on 12 September 2013, it continued to exist and to engage in hostilities with the Anti-Balaka.²⁶ Hostilities culminated in an attack on Bangui on 5 December 2013 (the “5 December 2013

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

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

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

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

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

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

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

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

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

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

Bangui Attack”).²⁷ Various Anti-Balaka groups, comprising about 1,000 armed men, joined efforts and attacked Bangui from different directions, using heavy weapons, assault rifles and machetes.²⁸ On the same day, Anti-Balaka elements attacked Bossangoa.²⁹ The 5 December 2013 Bangui Attack was not immediately successful³⁰ and sparked a cycle of violent reprisals by the Seleka and Anti-Balaka in various neighbourhoods in Bangui and throughout western CAR against civilians perceived as supporting the other side.³¹ An estimated 1,000 persons were killed in Bangui alone in the day following the 5 December 2013 Bangui Attack.³² Eventually, on 10 January 2014, Michel Djotodia resigned and the Seleka forces retreated to the north and east of the CAR.³³ A transitional government under interim President Catherine Samba-Panza took office.³⁴

9. With a view to engaging with the transitional government, the existing *de facto* Anti-Balaka structure was formalised as of January 2014.³⁵ [REDACTED].³⁶ ID Cards were issued by the National Coordination to some Anti-Balaka members [REDACTED] in order to distinguish them from so-called “fake” members.³⁷ Commanders of Anti-Balaka groups were formally appointed as Zone-Commanders (“ComZones”), including through appointment orders.³⁸ The ComZones controlled specific areas and commanded, disciplined and, as the case may be, punished their

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

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

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

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

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

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

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

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

³⁵ CAR-OTP-2001-3372.

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

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

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

respective groups.³⁹ By February 2014, the Anti-Balaka comprised at least 50,000 elements, of which around 40,000 deployed in the western provinces, led by over 80 ComZones, and 10,000 in eight neighbourhoods and municipalities around Bangui, led by approximately 22 ComZones.⁴⁰ [REDACTED].⁴¹ [REDACTED].⁴²

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

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

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

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

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

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

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

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

(“Chad”) and Cameroon or to the north-eastern part of CAR.⁴⁵ By August 2014, some 70,000 Muslim refugees had been received in Chad and over 120,000 in Cameroon.⁴⁶ Some 20,000 displaced Muslims were confined in 9 major enclaves in western and central CAR.⁴⁷

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

13. **Yekatom’s Anti-Balaka Group.** Yekatom commanded an Anti-Balaka group consisting of around 3,000 men, including about 200 former FACA members.⁵⁰ These fighters were primarily deployed in Cattin, Boeing and Bimbo,⁵¹ and, following the resignation of Michel Djotodia, also in the Lobaye Prefecture along the Bangui-Mbaiki axis.⁵² [REDACTED].⁵³ [REDACTED].⁵⁴ [REDACTED].⁵⁵ He was also assigned to represent the Anti-Balaka at high-level meetings and negotiations,

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

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

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

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

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

⁵⁰ CAR-OTP-2048-0171 at 0185, para. 80; CAR-OTP-2041-0741 at 0749, para. 58, at 0750, para. 60; CAR-OTP-2055-2610, from [00:07:52] to [00:08:13].

⁵¹ CAR-OTP-2048-0757 at 0766, paras 50-51; CAR-OTP-2076-0130 at 0138, lines 272-273; CAR-OTP-2014-0729 at 0740; CAR-OTP-2001-3811 at 3817; CAR-OTP-2048-0171 at 0184-0185, para. 79.

⁵² CAR-OTP-2072-1101 at 1103-1108, lines 48-240; CAR-OTP-2066-1467; CAR-OTP-2072-0914 at 0931, lines 592-597; CAR-OTP-2072-0521 at 0528, lines 253-297; CAR-OTP-2072-1068 at 1077-1078, lines 298-357; CAR-OTP-2048-0171 at 0184-0185, para. 79; CAR-OTP-2041-0741 at 0757, para. 110; CAR-OTP-2050-0654 at 0660, para. 39; CAR-OTP-2058-0200 at 0207-0208, para. 42; CAR-OTP-2053-0567 at 0567-0568; CAR-OTP-2001-0835 at 0884; CAR-OTP-0080-0821 at 0823; CAR-OTP-2030-0232 at 0233.

⁵³ CAR-OTP-2041-0741 at 0745, para. 29, 0747 para. 42, 0750, para. 65; CAR-OTP-2076-0146 at 0159, lines 479-481.

⁵⁴ CAR-OTP-2076-0146 at 0159, lines 479-481, at 0162, lines 585-587; CAR-OTP-2041-0741 at 750, para. 65.

⁵⁵ CAR-OTP-2041-0741 at 0747, 0750, 0753, 0754, 0755, paras 42, 64, 65, 82, 90, 100; CAR-OTP-2048-0171 at 0177-0179, paras 41-45; CAR-OTP-2046-0267 at 0275-0276, lines 311-318.

such as the Brazzaville Summit,⁵⁶ and was recognised as an Anti-Balaka representative by the CAR authorities and the international community.⁵⁷

14. Yekatom's group was hierarchically organised into sub-groups headed by commanders.⁵⁸ The group's command structure comprised his deputy, FACA *caporal-chef* Freddy Ouandjio (killed on or about 4 February 2014),⁵⁹ his replacement, FACA *caporal* Habib Beina, and other FACA members.⁶⁰ Yekatom issued orders relating to, for instance, the group's organisation, authorisation to pass through checkpoints and missions.⁶¹ Yekatom's subordinates recognised his authority and obeyed his orders;⁶² any disobedience was severely punished.⁶³ The group had weapons at its disposal, including machine guns, rocket-propelled grenades, hand grenades, variants of AK-47s, hunting rifles and machetes, which were acquired through FACA members joining the group, purchased, or stolen.⁶⁴ Yekatom provided his group with money to pay for fuel, food, medical treatment and to purchase weapons.⁶⁵ He also provided his subordinates, who were mostly inexperienced in combat and undisciplined, with combat training, including training on international humanitarian law.⁶⁶

15. In the light of the foregoing, the Chamber finds reasonable grounds to believe⁶⁷ that an armed conflict not of an international character was ongoing on the territory of the CAR since at least September 2013 until at least December 2014 between the

⁵⁶ CAR-OTP-2030-0267 at 0267; CAR-OTP-2001-6924 at 6926.

⁵⁷ CAR-OTP-0080-0840 at 0842; CAR-OTP-0080-0821 at 0823; CAR-OTP-2057-0979 at 0979; CAR-OTP-2051-0743 at 0745; CAR-OTP-2001-5739 at 5785.

⁵⁸ CAR-OTP-2048-0171 at 0185, para. 80; CAR-OTP-2058-0200 at 0205, para. 26; CAR-OTP-2039-0063 at 0063-0066.

⁵⁹ CAR-OTP-2068-0037 at 0047, para. 43.

⁶⁰ CAR-OTP-2058-0200 at 0210, paras 57-58; CAR-OTP-2039-0063 at 0064; CAR-OTP-2041-0741 at 0746, para. 36; CAR-OTP-2058-0200 at 0205, para. 26.

⁶¹ CAR-OTP-2041-0741 at 0750, para. 59; CAR-OTP-2050-0654 at 0662, para. 51; CAR-OTP-2058-0200 at 0208-0209, para. 48; CAR-OTP-2064-0822 at 0830, para. 40; CAR-OTP-2072-0822 at 0838.

⁶² CAR-OTP-2063-0050 at 0063, para. 82; CAR-OTP-2058-0200 at 0205, para. 28.

⁶³ CAR-OTP-2048-0171 at 0186, para. 87; CAR-OTP-2041-0741 at 0749, para. 54; CAR-OTP-2072-0851 at 0859, lines 262-291.

⁶⁴ CAR-OTP-2041-0741 at 0746, 0747-0748, paras 37-39, 41-50; CAR-OTP-2048-0171 at 0184, para. 78; CAR-OTP-2039-0072 at 0073-0074.

⁶⁵ CAR-OTP-2041-0741 at 0748, para. 48; CAR-OTP-2050-0654 at 0665, para. 79.

⁶⁶ CAR-OTP-2041-0741 at 0746, paras 35-39; CAR-OTP-2076-0130 at 0138-0140, lines 287-346; CAR-OTP-2050-0654 at 0658-0659, para. 33.

⁶⁷ See Pre-Trial Chamber III, *The Prosecutor v Jean-Pierre Bemba Gombo*, Decision on the Prosecutor's Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo, 10 June 2008, ICC-01/05-01/08-14-tENG, para. 24.

Seleka and the Anti-Balaka, including the group subordinate to Yekatom.⁶⁸ The Chamber finds that there are reasonable grounds to believe that the Seleka and the Anti-Balaka, including the group subordinate to Yekatom, qualify as armed groups within the meaning of article 8(2)(f) of the Statute, since, as the case may be, (i) they exhibit a sufficient degree of organisation, with commanders controlling militants within their respective bases, (ii) orders were circulated down the chain of command and were obeyed by subordinates, and (iii) they possessed military equipment, including firearms and heavy weapons, and had the ability to plan military operations and put them into effect. Further, the evidence shows that the violence among the above-mentioned armed groups rose above the level of isolated and sporadic acts of violence and that it was protracted, with the parties to the conflict employing attacks over a long period of time and at least in 5 western CAR Prefectures. Notably, the conflict has also attracted the attention of the United Nations Security Council (“UNSC”) in 2013-2014, triggered foreign military interventions,⁶⁹ and was marked by ceasefire agreements between the Seleka and its opponents, including the Anti-Balaka, which were not respected.

16. Moreover, the Chamber also finds reasonable grounds to believe that, from at least September 2013 until at least December 2014, an attack was conducted by the Anti-Balaka, including the group subordinate to Yekatom, against the Muslim civilian population and those perceived as collectively responsible for, complicit with or supportive of the Seleka, pursuant to or in furtherance of an organisational policy to target primarily the Muslim population in Bangui and at least 5 western CAR Prefectures in retribution for Seleka crimes (article 7(2)(a) of the Statute).⁷⁰ The Anti-Balaka attack across western CAR targeted a large number of victims of the Muslim communities following a consistent pattern of violence, including forcible displacement, killings, torture, forms of deprivation of physical liberty, enforced disappearance, looting of Muslim homes and businesses and destruction of mosques

⁶⁸ See Trial Chamber I, *Prosecutor v Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842, paras 531-542; Trial Chamber II, *Prosecutor v Germain Katanga*, Judgment pursuant to article 74 of the Statute (“Katanga Judgment”), 7 March 2014, ICC-01/04-01/07-3436-tENG, paras 1172-1187.

⁶⁹ S/RES/2088 (2013) (CAR-OTP-2001-0294); SC/RES/2121 (2013) (CAR-OTP-2001-0256); S/RES/2127 (2013) (CAR-OTP-2001-0275); S/RES/2134 (2013) (CAR-OTP-2051-0665); S/RES/2149 (2013) (CAR-OTP-2001-1043); S/RES/2181 (2013) (CAR-OTP-2091-0488).

⁷⁰ See Katanga Judgment, paras 1094-1122.

and Muslim homes and was therefore both widespread and systematic⁷¹ (article 7(1) of the Statute).

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

18. **The Crimes.** Yekatom, as a senior Anti-Balaka leader and commander of a group of around 3,000 members, active in the Bangui area and the Lobaye Prefecture, [REDACTED],⁷² is believed to have committed or have ordered the following crimes:

- a. Yekatom led members of his group in Bangui and adjacent neighbourhoods in their participation in the 5 December 2013 Bangui Attack.⁷³ Using firearms, grenades and machetes, Yekatom’s group first attacked Muslims in Boeing, including traders at the Boeing market, killing between 6 and 13 civilians.⁷⁴ Thereafter, Yekatom and his group moved to the Cattin crossroads where they attacked Seleka forces and civilians, killing at least four Muslims, regardless of whether they were Seleka fighters or civilians and burning at least one victim’s body.⁷⁵ Members of Yekatom’s group threatened to kill Michel Djotodia and all Muslims when retreating from Cattin.⁷⁶ In response to these attacks, Muslim residents of Cattin and Boeing were forced to flee to other parts of the CAR or neighbouring countries.⁷⁷

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

⁷¹ See Katanga Judgment, para. 1123.

⁷² CAR-OTP-2054-1480; CAR-OTP-2046-0714.

⁷³ CAR-OTP-2041-0741 at 0750-0751, paras 66-71.

⁷⁴ CAR-OTP-2041-0741 at 0751-0752, paras 69-73; CAR-OTP-2047-0257 at 0263, para. 46; CAR-OTP-2048-0757 at 0762, para. 27.

⁷⁵ CAR-OTP-2041-0741 at 0752, para. 77; CAR-OTP-2048-0112 at 0112; CAR-OTP-2048-0757 at 0762-0763, paras 30-31; CAR-OTP-2045-0501 at 0501.

⁷⁶ CAR-OTP-2048-0757 at 0762, para. 30.

⁷⁷ CAR-OTP-2041-0741 at 0752, para. 74; CAR-OTP-2048-0757 at 0764, 0765, paras 39, 49; CAR-OTP-2072-0578 at 0584, lines 212-218; CAR-OTP-2048-0112 at 0112.

against the civilian population, namely murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute),⁷⁸ and persecution (article 7(1)(h) of the Statute);⁷⁹ and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely murder (article 8(2)(c)(i) of the Statute), and intentionally directing an attack against the civilian population (article 8(2)(e)(i) of the Statute).⁸⁰

The Chamber is satisfied that the supporting evidence, which includes [REDACTED] and ICC and non-ICC witness statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- b. After the 5 December 2013 Bangui Attack, Yekatom ordered the destruction of Muslim homes in Boeing and the Boeing mosque by 20 December 2013 at the latest.⁸¹ His subordinates, including Freddy Ouandjio, Habib Beina, FACA *caporal* Junior Kempes, his brother Junior Saragba and Namkoisse, participated in these crimes.⁸²

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

⁷⁸ See Pre-Trial Chamber I, *Request under Regulation 46(3) of the Regulations of the Court*, Decision on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute”, 6 September 2018, ICC-RoC46(3)-01/18-37, paras 52-61; Pre-Trial Chamber II, *Prosecutor v William Samoei Ruto et al*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 23 January 2012, ICC-01/09-01/11-373, para. 244-245.

⁷⁹ See Pre-Trial Chamber III, *Situation in the Republic of Burundi*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi (“Burundi Decision”), 9 November 2017, ICC-01/17-9-Red, paras 130-133.

⁸⁰ See Pre-Trial Chamber II, *Prosecutor v Bosco Ntaganda*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, 9 June 2014, ICC-01/04-02/06-309, paras 45-47; Katanga Judgment, paras 800-803.

⁸¹ CAR-OTP-2047-0257 at 0267, para. 73; CAR-OTP-2041-0741 at 0749, paras 53-54.

⁸² CAR-OTP-2041-0741 at 0749, 0750, paras 53, 63.

religion (article 8(2)(e)(iv) of the Statute)⁸³ and destruction of the adversary's property (article 8(2)(e)(xii) of the Statute).⁸⁴

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- c. [REDACTED].⁸⁵ [REDACTED].⁸⁶ [REDACTED].⁸⁷ [REDACTED].⁸⁸
[REDACTED].⁸⁹ [REDACTED].⁹⁰ [REDACTED].⁹¹ [REDACTED].⁹²
[REDACTED].⁹³

In the light of the foregoing, the Chamber finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute),⁹⁴ torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(i) of the Statute),⁹⁵ and other inhumane acts (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely torture and cruel treatment (article 8(2)(c)(i) of the Statute), and mutilation (articles 8(2)(c)(i) and/or 8(2)(e)(xi) of the Statute).

⁸³ Trial Chamber VIII, *Prosecutor v Ahmad Al Faqi Al Mahdi*, Judgment and Sentence, 27 September 2016, ICC-01/12-01/15-171, paras 13-17.

⁸⁴ See *Katanga Judgment*, paras 887-897.

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

⁸⁶ CAR-OTP-2053-0086 at 0089-0090, paras 18-26.

⁸⁷ CAR-OTP-2053-0086 at 0090, paras 27-31.

⁸⁸ CAR-OTP-2054-1136 at 1143, paras 37-38.

⁸⁹ CAR-OTP-2054-1136 at 1143, paras 37-38; CAR-OTP-2053-0086 at 0091, paras 35-36.

⁹⁰ CAR-OTP-2054-1136 at 1143-1144, paras 39-43; CAR-OTP-2053-0086 at 0091, para. 38.

⁹¹ CAR-OTP-2054-1136 at 1147, paras 60-61; CAR-OTP-2053-0086 at 0091, paras 48-51.

⁹² CAR-OTP-2054-1136 at 1143, para. 38; CAR-OTP-2053-0086 at 0091, para. 37.

⁹³ CAR-OTP-2053-0086 at 0092, para. 47.

⁹⁴ See *Burundi Decision*, para. 68.

⁹⁵ See *Burundi Decision*, paras 117-121.

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

- d. At the beginning of January 2014, Yekatom led his subordinates into Bimbo, where he established a new base for his group situated on the Mbaiki side of the PK9 Bridge.⁹⁶ He also set up a checkpoint at this bridge for the purposes of, *inter alia*, exacting illegal “tolls”.⁹⁷

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

- e. On or about 10 January 2014, Yekatom ordered his group to move towards Mbaiki.⁹⁸ On 11 January 2014, Yekatom’s subordinates advanced towards Mbaiki, taking control, without any resistance, over, *inter alia*, the following villages Sekia, Ndangala, Bimon, Kapou, Bossongo and Pissa.⁹⁹ Yekatom’s group established checkpoints in, *inter alia*, Sekia, Bimon, Bossongo and Pissa where they exacted illegal “tolls”.¹⁰⁰

⁹⁶ CAR-OTP-2048-0171 at 0181-0182, para. 61; CAR-OTP-2048-0171 at 0186, para. 89; CAR-OTP-2059-1546 at 1557, lines 381; CAR-OTP-2055-2610, from [00:01:14] to [00:03:04].

⁹⁷ CAR-OTP-2048-0171 at 0183-0184, 0186, paras 74, 89; CAR-OTP-2050-0654 at 0665, para. 79; CAR-OTP-2001-6251 at 6294.

⁹⁸ CAR-OTP-2058-0200 at 0207-0208, para. 42.

⁹⁹ CAR-OTP-2048-0171 at 0184-0185, para. 79; CAR-OTP-2050-0654 at 0659-0660, paras 37-39; CAR-OTP-2053-0567 at 0567; CAR-OTP-2045-0525 at 0525; CAR-OTP-2072-1068 at 1077-1079, lines 298-357; CAR-OTP-2058-0200 at 0207-0208, para. 42.

¹⁰⁰ CAR-OTP-2072-0914 at 0929 and 0932, lines 534-535 and lines 612-620; CAR-OTP-2072-1068 at 1077-1088, lines 288-357; CAR-OTP-2050-0654 at 0660-0661, para. 44; CAR-OTP-2064-0822 at 0830, para. 4; CAR-OTP-2001-0835 at 0876, 0884; CAR-OTP-2001-5739 at 5798.

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

- f. On or about 30 January 2014, Yekatom and his subordinates entered Mbaiki.¹⁰¹ By that time, the Seleka had left Mbaiki and the number of Muslims had increased due to their flight from Anti-Balaka attacks in other towns and villages in Lobaye Prefecture.¹⁰² Yekatom's subordinates threatened Muslims, telling them to leave and gesturing by running their fingers across their throats.¹⁰³ Fearing imminent harm, starting from at least 6 February 2014, virtually the entire Mbaiki's Muslim civilian population was forced to flee to Chad, escorted by Chadian forces, or other parts of the CAR.¹⁰⁴ Yekatom's subordinates also destroyed Muslim houses and mosques in Mbaiki.¹⁰⁵

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

¹⁰¹ CAR-OTP-2058-0200 at 0207-0208, paras 41-43; CAR-OTP-2053-0576 at 0576.

¹⁰² CAR-OTP-2059-0361 at 0374, para. 69; CAR-OTP-2063-0369 at 0375, para. 33; CAR-OTP-2053-0576 at 0576.

¹⁰³ CAR-OTP-2063-0369 at 0375, para. 32; CAR-OTP-2072-1039 at 1057-1060, lines 613-743; CAR-OTP-2055-1987 at 2159; CAR-OTP-2001-2308 at 2343-2344.

¹⁰⁴ CAR-OTP-2048-0171 at 0187, para. 95; CAR-OTP-2050-0654 at 0661, para. 48; CAR-OTP-2059-0361 at 0374-0376, paras 69-76; CAR-OTP-2063-0369 at 0375, para. 33; CAR-OTP-2072-1039 at 1057-1060, lines 613-743; CAR-OTP-2045-0565 at 0566; CAR-OTP-2055-1987 at 2159.

¹⁰⁵ CAR-OTP-2059-0361 at 0376-0377, para. 80; CAR-OTP-2017-0115 at 0130; CAR-OTP-2001-2308 at 2316.

character, namely displacement of the civilian population (article 8(2)(e)(viii) of the Statute), intentionally directing an attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), and destruction of the adversary's property (article 8(2)(e)(xii) of the Statute).

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

- g. Lastly, at least from December 2013 children were enlisted in the group, and until at least August 2014, boys under the age of 15 were stationed at the Yamwara School and other bases and checkpoints controlled by Yekatom, including in Sekia and Pissa.¹⁰⁶ [REDACTED].¹⁰⁷

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

The Chamber is satisfied that the supporting evidence, which includes ICC witness statements [REDACTED], is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

19. **Yekatom's Conduct.** Yekatom committed the above crimes [REDACTED], to target the Muslim population and others perceived to support the Seleka or to be "foreigners" in Bangui and in western CAR. Yekatom, his command structure, including Freddy Ouandjio, and his subordinates explicitly shared and expressed anti-

¹⁰⁶ CAR-OTP-2075-1743 at 1745, paras 10, 15; CAR-OTP-2075-1751 at 1759-1760, paras 33-35.

¹⁰⁷ CAR-OTP-2075-1743 at 1746-1747, paras 20-23; CAR-OTP-2075-1751 at 1760-1761, paras 38-41; CAR-OTP-2068-0558 at 0559-0560; CAR-OTP-2071-0279.

Muslim sentiments.¹⁰⁸ Using violent and inflammatory rhetoric, he issued unlawful orders to his subordinates such as: “kill Selekas and Muslims”, “destroy the Muslims houses so they will go back to their country”, as well as instructions to attack the Boeing mosque and to torture and kill Muslims and individuals perceived to be traitors.¹⁰⁹ In addition, Yekatom provided his subordinates with the means to commit the crimes by supplying weapons, training them and providing them with money to purchase fuel, food, medical treatment and weapons,¹¹⁰ appointed individuals in positions of authority within his group,¹¹¹ and ordered the deployment of his subordinates to towns and villages in which they have committed crimes.¹¹² Yekatom was also aware that children under the age of 15 years were part of his group.¹¹³ Furthermore, despite being informed of other crimes, he did not prevent or punish the conduct of his subordinates.¹¹⁴

20. Taking into account the totality of evidence, the Chamber finds reasonable grounds to believe that, in the first place, Yekatom committed jointly with or through others or otherwise ordered, solicited, induced and facilitated the commission of the crimes described above (articles 25(3)(a)¹¹⁵, 25(3)(b)¹¹⁶ and 25(3)(c)¹¹⁷ of the Statute). The Chamber is satisfied that Yekatom acted with the required intent and knowledge for the specific crimes set forth in this warrant of arrest. In addition, the Chamber is satisfied that (i) Yekatom knew that the crimes were or intended the crimes to be part

¹⁰⁸ CAR-OTP-2029-0399 at 0425, para. 172; CAR-OTP-2072-0946 at 0947-0948, 0952-0954, 0965-0970, lines 24-73, 211-254, 687-866.

¹⁰⁹ CAR-OTP-2041-0741 at 0748-0749, 0751, 0754, paras 51-57, 68, 94; CAR-OTP-2054-1136 at 1143, paras 35-38.

¹¹⁰ CAR-OTP-2041-0741 at 0746, 0747, 0748, paras 36, 37, 43, 48; CAR-OTP-2050-0654 at 0658-0659, 0665, paras 33, 79, 81, 83; CAR-OTP-2064-0822 at 0828, para. 29; CAR-OTP-2076-0130 at 0138-0140, lines 287-346.

¹¹¹ CAR-OTP-2050-0654 at 0662, para. 51; CAR-OTP-2064-0822 at 0830, para. 40.

¹¹² CAR-OTP-2058-0200 at 0207-0208, para. 42; CAR-OTP-2041-0741 at 0750-0751, paras 66-71.

¹¹³ CAR-OTP-2075-1743 at 1745, para. 11; CAR-OTP-2075-1751 at 1760, para. 36.

¹¹⁴ CAR-OTP-2072-0946 at 0963-0964, lines 623-645.

¹¹⁵ See Trial Chamber VII, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment pursuant to Article 74 of the Statute, 19 October 2016, ICC-01/05-01/13-1989-Red, paras 64-71; Katanga Judgment, paras 1398-1416; Pre-Trial Chamber II, *Prosecutor v Gemain Katanga and Mathieu Ngudjolo Chui*, Decision on the confirmation of charges, 30 September 2008, ICC-01/04-01/07-717, paras 487-539.

¹¹⁶ See Pre-Trial Chamber II, *Prosecutor v. Sylvestre Mudacumura*, Decision on the Prosecutor’s Application under Article 58, 13 July 2012, ICC-01/04-01/12-1-Red, para. 63.

¹¹⁷ See Appeals Chamber, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”, 8 March 2018, ICC-01/05-01/13-2275-Red, paras 18-21.

of a widespread and systematic attack against the civilian population,¹¹⁸ and (ii) he was aware of the factual circumstances that established the existence of the non-international armed conflict.¹¹⁹ In the second place, the Chamber is satisfied that Yekatom, given his effective control over his Anti-Balaka group, alternatively or cumulatively bears criminal responsibility as a military commander since he knew or, owing to the circumstances at the time, he should have known that the members of his Anti-Balaka group were committing or were about to commit the crimes described above and he failed to take all necessary and reasonable measures to prevent or repress the commission by his subordinates of such crimes (article 28(a) of the Statute¹²⁰).

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

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

22. The Chamber is satisfied, in conformity with article 58(1)(b) of the Statute, that the arrest of Yekatom appears necessary to ensure that (i) he appears at trial; (ii) does not obstruct or endanger the Prosecutor's ongoing investigation; and (iii) does not continue with the commission of crimes within the jurisdiction of the Court arising out of the same circumstances. The Chamber notes that information from as early as 2015 describes Yekatom to be a person "engaging in or providing support for acts that undermine the peace, stability or security of the CAR".¹²¹ The Chamber takes also heed of the fact that nearly 80% of the territory of the CAR is still under the control of armed groups, including the Anti-Balaka,¹²² which would easily enable the suspect to evade justice if he would remain free. Further, Yekatom's recent behaviour, in particular the reported instruction to his men to intimidate individuals in Bimbo at gun point¹²³ and the latest incident in the CAR Parliament,¹²⁴ demonstrate that he resorts

¹¹⁸ See paragraph 2 of the Introduction to Crimes against Humanity (Article 7) in the Elements of Crimes.

¹¹⁹ See paragraph 3 of the Introduction to War Crimes (Article 8) in the Elements of Crimes.

¹²⁰ See Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009, ICC-01/05-01/08-424, paras 404-443.

¹²¹ CAR-OTP-2015-0782 at 0782; CAR-OTP-2074-3246 at 3247.

¹²² CAR-OTP-2084-1827 at 1827.

¹²³ CAR-OTP-2084-1827 at 1827.

to violent acts, his position of authority and availability of means today, and make his voluntary appearance implausible. In addition, the Chamber notes that Yekatom is a CAR MP and retains strong influence over his (former and current) Anti-Balaka subordinates, in particular in Lobaye Prefecture,¹²⁵ which could allow him to reach, intimidate, or harm (potential) witnesses, their families or other individuals cooperating with the Court. In this context, the Chamber refers to the information that Yekatom resides in the CAR, as do potential witnesses, which increases his ability to interfere with the ongoing investigation. Lastly, given Yekatom's recent behaviour, his connections to and authority over his Anti-Balaka group and the fact that the armed conflict has not ceased in the CAR to this day, the Chamber is of the view that Yekatom's arrest is necessary to prevent him from committing further crimes within the jurisdiction of the Court. In light of the foregoing, the issuance of a warrant of arrest is deemed as necessary.

IV. Classification and Other Requests

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

24. Moreover, the Chamber is of the view that all necessary measures must be taken to ensure that the travel ban imposed on Yekatom by the UNSC is not an impediment to his surrender to the Court.

¹²⁴ ICC-01/14-22-US-Exp, para. 6.

¹²⁵ CAR-OTP-2051-0393 at 0400; CAR-OTP-2051-0372 at 0373.

25. [REDACTED],¹²⁶ [REDACTED].

FOR THESE REASONS, THE CHAMBER HEREBY

ISSUES a warrant of arrest for Alfred Yekatom, a national of the Central African Republic (passport number O00040426), born on 23 January 1975 in Bimbo, presumably residing in Mbaiki, Pissa or Bimbo, for his alleged criminal responsibility pursuant to articles 25(3)(a), (b) and (c) as well as 28(a) of the Statute, for murder (article 7(1)(a) of the Statute), deportation or forcible transfer of population (article 7(1)(d) of the Statute), imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(1)(i) of the Statute) and other inhumane acts (article 7(1)(k) of the Statute) as crimes against humanity and murder (article 8(2)(c)(i) of the Statute), torture and cruel treatment (article 8(2)(c)(i) of the Statute), mutilation (articles 8(2)(c)(i) and/or 8(2)(e)(xi) of the Statute), intentional attack against the civilian population (article 8(2)(e)(i) of the Statute), intentional attack against buildings dedicated to religion (article 8(2)(e)(iv) of the Statute), enlistment of children under the age of 15 years and their use to participate actively in hostilities (article 8(2)(e)(vii) of the Statute), displacement of the civilian population (article 8(2)(e)(viii) of the Statute) and destruction of the adversary's property (article 8(2)(e)(xii) of the Statute) as war crimes, committed in various locations in the CAR, including Bangui and the Lobaye Prefecture, between 5 December 2013 and August 2014, as set forth in this warrant of arrest;

DECIDES that the warrant of arrest, currently classified under seal, *ex parte* Prosecutor only, may be communicated, or its existence be revealed, to any State or international organisation for the purposes of its execution and the existence of the Prosecutor's Application be mentioned;

DECIDES that the warrant of arrest be made public, possibly with redactions, if necessary, as soon as the person is surrendered to the seat of the Court;

¹²⁶ ICC-01/14-18-US-Exp, para. 356.

DIRECTS the Registrar to take all necessary measures to ensure that the UNSC travel ban imposed on Yekatom is not an impediment to his surrender to the Court;

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

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

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

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

DIRECTS the Registrar to prepare and transmit to the relevant national authorities of the Central African Republic or the competent authorities of any other arresting State a request for cooperation in accordance with articles 93(1)(h) and 99(1) of the Statute for [REDACTED];

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

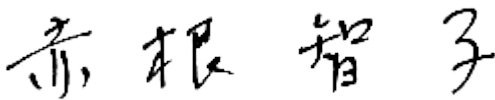
ORDERS the Registrar to open a case record and transfer first the Prosecutor's application (ICC-01/14-18-US-Exp) from the situation record into the case record;

ORDERS the Prosecutor, within three days of issuance of the present warrant of arrest, to inform the Chamber whether this warrant may be made public without redactions or, alternatively, which redactions, according to the Prosecutor, should be applied to the warrant in order to make it public at the time the suspect will be eventually surrendered to the Court.

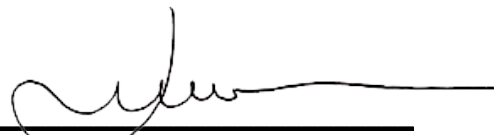
Done in both English and French, the English version being authoritative.



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



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Saturday, 17 November 2018

At The Hague, The Netherlands