

Confirmation of Charges Hearing

(Open Session)

ICC-01/14-01/22

1 International Criminal Court  
2 Pre-Trial Chamber II  
3 Situation: Central African Republic II  
4 In the case of The Prosecutor v. Maxime Jeoffroy Eli Mokom  
5 Gawaka - ICC-01/14-01/22  
6 Presiding Judge Rosario Salvatore Aitala, Judge Tomoko Akane and  
7 Judge Sergio Gerardo Ugalde Godínez  
8 Confirmation of Charges Hearing - Courtroom 2  
9 Wednesday, 23 August 2023  
10 (The hearing starts in open session at 9.32 a.m.)  
11 THE COURT USHER: [9:32:37] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE AITALA: [9:32:58] Good morning, everyone. Mr Court  
15 Officer, would you kindly call the case?  
16 THE COURT OFFICER: [9:33:03] Good morning, Mr President. Good morning,  
17 your Honours.  
18 This is the Second Situation in the Central African Republic, in the case of The  
19 Prosecutor versus Maxime Jeoffroy Eli Mokom Gawaka, case reference  
20 ICC-01/14-01/22.  
21 And for the record we are in open session.  
22 PRESIDING JUDGE AITALA: [9:33:23] Thank you very much. Just for the records,  
23 I would ask parties and participants just to, if there's any change in the -- just say it  
24 again who's present, just for the records, of your team. Mr Prosecutor.  
25 MR NIANG: [9:33:42] Mr President, your Honours, good morning. Our office is

1 represented exactly by the same team as yesterday. To my left, Leonie von Braun  
2 and Colleen Gilg; and behind me, Madam Neera Mandavia, Madam Marie-Jeanne  
3 Sardachti, Mr Matteo Costi, Mr Lucio Garcia and Sandra Schoeters. Thank you.

4 PRESIDING JUDGE AITALA: [9:34:12] Thank you very much, sir. Mr Laroche,  
5 *s'il vous plaît*.

6 MR LAROCHELLE: [9:34:15](Interpretation) Good morning, Mr President, your  
7 Honours. The Defence bench is represented by exactly the same team. Mr Mokom  
8 is present. And I correct one name, Madam Divet, not Madam "Div". And then we  
9 have two interns: Fanny Decaluwe to my left, and behind me, Baptiste Beurrier.  
10 Thank you, Mr President.

11 PRESIDING JUDGE AITALA: [9:34:40] Thank you very much. Common Legal  
12 Representatives of the Victims.

13 MR FALL: [9:34:46](Interpretation) Thank you, Mr President. The Legal  
14 Representatives of Victims' team remains the same as yesterday. There's been no  
15 change.

16 PRESIDING JUDGE AITALA: [9:34:57] Thank you very much. The composition of  
17 the Chamber is unchanged.

18 Now, we will then continue with the submissions on the merits of the Common Legal  
19 Representatives of Victims. You are left with 99 minutes overall, so the floor is  
20 yours.

21 MR FALL: [9:35:55](Interpretation) Thank you, your Honour. My colleagues, the  
22 team of the Legal Representatives of the Victims of the Crimes have asked me to  
23 address you first for this hearing for this morning's session. And then following my  
24 observations, my colleague Mr Moussa Dangabo will follow.

25 Your Honour, your Honours, this case, if we look at it close up, is in reality but a

1 sequence in a situation we already know too well in the Central African Republic,  
2 with one difference about the geographical and temporal dimensions of this case. As  
3 the Prosecutor recalled yesterday, we are just about certain that if the investigations  
4 had taken place at the same time, we could have had a joint trial with the other case  
5 that is now underway, so we could have simply reread the statements made at the  
6 time before the Pre-Trial Chamber V. However, in the interim, the road has been  
7 long in these proceedings, and this has enabled us to be facing reality and learn more  
8 about what has happened.

9 Under our mandate, we, the Legal Representatives of the Victims, have been called  
10 upon to be a physical contact, a direct and ongoing contact, with the field, and this  
11 position has made us ultimately a receiver for reactions of victims who, all in all, have  
12 a central role in the functioning of the Court. The victims are indeed at the  
13 beginning, the middle and at the end of the process.

14 Indisputably, they make up a reservoir in which all the parties, without exception,  
15 will be gleaning resources to make this machine function. Without their cooperation,  
16 their availability, their depositions and other statements, it is a certain fact that the  
17 system would have ground to a halt and would have had great difficulties.

18 This very central place being occupied by our clients within the court system has been  
19 enshrined not just by the founding text, but also by the professions of faith, which we  
20 have continued to hear coming from the voices of those who have the most authority  
21 to make such statements.

22 During the 25th commemoration of the adoption of the Rome Statute on 17 July last,  
23 Madam Fernández de Gurmendi, President of the Assembly of States Parties, stated  
24 the following, and I quote:

25 "The need for the Court to continue work in order to attain a level of a court that is

1 worth having, a universal and inclusive court that can achieve high-calibre justice,  
2 guaranteeing a central role of victims."  
3 With respect to us, we essentially have worked in refugee camps located in Chad,  
4 where, as everyone knows, most of those who were able to escape the massacres are  
5 now located. We have heard their stories and we have put our finger on the  
6 atrocities of which they were victims with the traces -- and the documentary traces  
7 which they still have. And in these stories that we have heard, your Honours, the  
8 name of the accused has been named many, many times. This name was repeated  
9 ad nauseam. All the -- practically all the victims whom we met, cited among the  
10 people whom they consider responsible for what they suffered, mentioned him.  
11 So, Mr President, your Honours, the fact that he was the head of the Anti-Balaka is  
12 something that is just public knowledge; and, so, I would like just to draw the  
13 attention to Article 22 of the Rome Statute. I think that this Article is quite edifying,  
14 your Honour, with regard to the responsibility of this chief, this commander in chief.  
15 Moreover, if we refer to jurisprudence of international jurisdictions, we could also  
16 note that it is not necessary to have a highly known public authority, but a simple de  
17 facto authority in order to speak or evoke responsibility of the commander in chief of  
18 the troops.  
19 Now, on another level, your Honours, there is no doubt about the atrocities that were  
20 conducted by the Seleka troops; the TVs across the world have shown this. But the  
21 problem, and I've seen this throughout the hearings, is that several times I heard  
22 voices referring to the Seleka. But that is not the debate here. That is not the debate  
23 we're having here. What we are debating here are the crimes committed against the  
24 Muslim population of the Central African Republic. And what we are seeking to  
25 know is: Who are the people responsible for these atrocities? That is the purpose

1 of these proceedings.

2 I have conducted several field missions for five years now, and I must admit that  
3 despite my efforts and my persistence and all my initiatives, I still have a very hard  
4 time fully outlining -- I'm not talking about the reasons, but the outline of all those  
5 who were targeted by these atrocities in the Central African Republic in the relevant  
6 period.

7 Given the confusion and the contradictions in the terms and explanations, I can assure  
8 you that even today it is difficult for me to clearly distinguish everything and to see a  
9 clear picture. The only statement that we have observed time and again — and it is a  
10 common trait of all the victims we met in Chad — is that they all belong to the  
11 Muslim religion. This confusion of different types has led to the massacre of dozens  
12 of thousands of people based on their physical appearance and the way they were  
13 dressed. So -- or, rather, while it is obvious that faith is something that is  
14 fundamentally intrinsic, people who unfortunately had been dressed like Muslims  
15 were sacrificed.

16 I can mention as an example a young Senegalese whose parents are -- or were living  
17 in the Central African Republic at the time, and when the events exploded, he went  
18 on a trip to find out how his parents were doing and we were floored to hear that he  
19 was killed in the street simply because he was dressed in a boubou -- this is, a  
20 Muslim-type of dress. This boy who was 18 or 19 years, he paid the cost -- paid the  
21 price of this killing that was going on. And during the testimonies which we heard,  
22 we also learned that some people were able to escape death by dressing up and by  
23 putting their burka aside to wear another type of clothes in order to escape death.  
24 This is a real disaster, a catastrophe.

25 Your Honours, we have heard the accused in the statement made by him yesterday,

1 giving the reasons that led to the creation of the Anti-Balaka troops. He qualified  
2 them as self-defence troops and he considered that their actions constituted legitimate  
3 self-defence. Your Honour, it is true that at the outset the Anti-Balaka troops had a  
4 traditional connotation, but the reality is such that, and this is something that  
5 happened subsequently — no-one can deny it — they were deviated, manipulated,  
6 guided by politicians solely to fight one man, one regime and have it fall so that  
7 another one could take over. The elements which we have heard here, your Honour,  
8 bear witness to this.

9 If we refer to the legal notion of legitimate self-defence, your Honours, the  
10 justifications that the accused gave as the basis of his initiative in the statement made  
11 yesterday — we all know; we're all here among lawyers — in legitimate self-defence,  
12 or legitimate defence, there has to be a simultaneity between the act and the answer.  
13 But if the act is posterior, then this is no longer legitimate defence; this is, rather,  
14 revenge, and that is exactly what happened.

15 I carefully listened to the statement made by the accused yesterday, but it strengthens  
16 this idea that what happened are acts of reprisal. They had to get revenge for what  
17 the Seleka troops had done, and this fury, insidiously and in the fable, the Seleka, the  
18 word "Seleka" began to be the equivalent of Muslim -- Muslim. This is exactly what  
19 we have seen happen.

20 So, your Honour, your Honours, the destruction of a religious place of worship, a  
21 mosque can in no way be considered an act of legitimate defence. Likewise, for acts  
22 of throwing a smoke bomb onto a house so that the people inside would come out to  
23 kill them, not even sparing children, this could never be defined as legitimate defence.  
24 It's an act of deliberate reprisals and vengeance; and, personally, that's what I glean  
25 from the statement made yesterday by the accused.

1 We also saw a video, your Honour, a video of a person saying, "We absolutely have to  
2 ensure that the president of this country will step down, otherwise it will be a  
3 massacre." And that is exactly what happened. There was a massacre. We can all  
4 bear witness to this because we are regularly in the field.

5 Your Honours, the fact of saying that "I was not on site" is something that, well, we  
6 have to take into account, because we are in a period of communication. So you can  
7 easily guide troops or govern troops because we live in a virtual world. As the  
8 Prosecutor's records about communication showed us, you don't have to be in the  
9 field in order to guide the troops, to lead the troops.

10 I think, your Honour, you have heard, we all heard him saying, "I was not alone;  
11 there were others." But here this is a matter of criminal responsibility. It is  
12 individual and it doesn't seem to be a good way to defend oneself in saying, "Well, I  
13 wasn't alone."

14 Your Honour, what happened in the Central African Republic is something that is  
15 unacceptable. No-one can explain the reasons why all these people, most of them  
16 innocent, were sacrificed.

17 Here I have to talk about what Marie-Hélène Proulx, who is the president of the  
18 ICCBA, and I quote her:

19 "The Legal Representatives of Victims are undermined by the expectations and  
20 suffering of their clients. They are the ones who bear hope for a better future. And  
21 this is a very heavy burden, very significant and it has heavy consequences. And  
22 their mandate is a cry in this real trauma of the victims and the universal concept of  
23 humanity."

24 This was very, very wise reasoning. I have spent entire days reading and rereading  
25 this text because in such a profound and appropriate way, it reflects the real situation

1 which we have been living for many years now. It's a situation made up of tears,  
2 lamenting not only multiple phone calls, but endless ones, not counting the  
3 unexpected and very, very numerous phone calls we have had. So out of respect for  
4 the mandate that the Court has given us, we have borne the brunt of all of this. But  
5 it is by basing ourselves on this universal concept of humanity, as Madam Proulx said,  
6 that we have been able to bear all of this.

7 Your Honours, I will have to stop here for the following reasons:

8 The first, your Honours, is that we have -- in the observations at the beginning of the  
9 hearing, you have drawn our attention to the fact that we had to avoid repeating  
10 things, and we do not want to fall into this trap.

11 The second reason, your Honour, is the Article 68(3) of the Legal Representatives.

12 There are limits which we cannot overstep.

13 And the third reason is because, as we hear all the time, your Honour, we are but  
14 participants and we cannot act as another set of Prosecutors. That is not our role.

15 Your Honour, we are here to make the voice of the victims heard in this dimension of  
16 its views and concerns.

17 Your Honour, I would like to conclude on this note: What has happened in the  
18 Central African Republic must never happen again, neither there nor anywhere,  
19 anywhere else in the world. No-one has the right to do what has happened for the  
20 simple reason, and as has been said by the French poet Victor Hugo in *Acts and Words*,  
21 "The inviolability of human life and the right of rights", we cannot allow ourselves to  
22 just liquidate human beings for this only goal -- the only goal of grabbing power.  
23 That is just inadmissible.

24 Your Honour, basing ourselves on what we have experienced in the field, what we  
25 have heard and what we have seen, we sincerely think, your Honour, that there are



1 substantial grounds to believe that the crimes that have been retained in the  
2 document with the counts have indeed been committed. And we think also very  
3 profoundly, your Honours, that there are substantive reasons to believe that the  
4 accused has himself made it clear that he is responsible for his deeds. Thank you.

5 PRESIDING JUDGE AITALA: [10:01:54] Thank you very much, sir. I understand  
6 that your colleague will take the floor now; is that right?

7 MR FALL: [10:02:03](Interpretation) That is correct, Mr President.

8 PRESIDING JUDGE AITALA: [10:02:05] Thank you very much. Then the floor is  
9 still with the Common Legal Representatives of Victims. Thank you.

10 MR DANGABO MOUSSA: [10:02:37](Interpretation) Good morning, Mr President,  
11 your Honours. Good morning to everyone in the courtroom, and good morning to  
12 all those guests who have come from afar to listen to us, and to those who are in  
13 Bangui in the Central African Republic, and those who are listening to us very  
14 carefully.

15 Your Honours, the date of 5 December 2013 is a date that we could call fatal. The  
16 capital Bangui is one that a part of the army and the Anti-Balaka took siege on in  
17 order to take power from the Seleka. They failed in re-establishing the constitutional  
18 order. The reprisals of the Seleka were obviously very bloody.

19 The revenge of the Anti-Balaka at that time, then, headed to the neighbourhoods  
20 which in their majority were Muslim and the latter very quickly became a target, a  
21 main target.

22 On 5 December, the Red Cross recorded hundreds of civilian victims who died.  
23 There were too many deaths, too many people displaced, too many people who were  
24 condemned to forced exile. At the time, the head of the high commissariat for  
25 refugees, Antonio Guterres, worded it in this way to talk about this tragedy, and I

1 quote, "an ethnic religious cleansing." This was on 24 February 2014.

2 Your Honours, Mr Mokom, who is here today, is an officer of the Central African  
3 national police. He was trained in Libya, in charge of intelligence. He was the  
4 general coordinator of the Anti-Balaka and, yesterday, he declared before the  
5 Pre-Trial Chamber that the Anti-Balaka are patriots, but not for the victims.  
6 Nevertheless, this word has been used any which way and so we have to see what  
7 this means, this word "Anti-Balaka".

8 But in the meantime, this is typically what you see as Anti-Balaka, described by a  
9 historian who knows -- a French historian who knows the history of the Central  
10 African Republic, and I quote him:

11 "Anti-Balaka quickly became a catch-all term to designate all those who were  
12 adversaries of the regime: the Bozizé clan and the spiteful falcons, the military who  
13 vanished when the Seleka came and who wanted to fight, and a plethora of  
14 unemployed violent and unstable youth, highway robbers and members of  
15 self-defence groups. One thing united them: they wanted to oust the Muslims, get  
16 rid of all the Muslims in the country any which way they could."

17 And I'm quoting Jean-Pierre Tuquoi in his book called *Oubangui-Chari, the country that*  
18 *did not exist*, published by La Découverte in 2021, page 241-242.

19 I have not seen a better definition for this word. I myself, being from the Central  
20 African Republic, and even if I have lived in Paris, and I indirectly and directly have  
21 been affected by this matter.

22 The Prosecution in a very precise way investigated the Anti-Balaka actors and that  
23 has made it possible for the OTP to know what they felt, and so the Anti-Balaka know  
24 very well that they are killing people because that's what they spend their days doing.  
25 These Anti-Balaka and their coordinator, who is present here today, are ordinary men,

1 just like we are, and they, several times, have had the opportunity to abstain from  
2 killing, but they did not do so. And in the great majority, they preferred to obey, in  
3 just a few weeks creating many victims who were killed straight out or they were  
4 displaced to the enclave called PK5 or abroad.

5 Analysing the testimony before this Court, what we see is an ordinary aptitude of  
6 humans to carry out extraordinary inhumanity, as Browning says. Mr Mokom and  
7 those who will support the killing of other human beings are ordinary people. Their  
8 days are filled with preparing weapons, mass graves, managing bodies, and training  
9 et cetera. Victims have told us about the ordinary way in which these people went  
10 about these killings.

11 So what does an Anti-Balaka think of when killing? That person thinks about  
12 himself or herself, about those they will kill. They think about how not to get dirty,  
13 about their working conditions, the smell, the blood. To analyse their criminal  
14 policy, presumably targeting the Muslim population with, and I quote the Court, "the  
15 commission of murders", there are four fundamental elements of the theory of  
16 criminal personality through the prism of Jean Pinatel. Jean Pinatel says that  
17 someone who has a criminal personality is characterised by egocentrism, lability,  
18 aggressiveness and emotional indifference. And we add one more notion to our  
19 dear Browning, that is availability.

20 So emotional indifference to the fate of others, of Muslims, this is a state of  
21 insensitivity and emotional inexpressiveness. It is emotional coldness.

22 With regard to availability, the suspect was not subject to any authority. He is the  
23 chief. As the coordinator of the Anti-Balaka, he killed or gave the order to kill when  
24 he wanted to do so. The victim is not the main goal of the killer. That's not what's  
25 of interest to him. The daily life of an Anti-Balaka chief is made up of his colleagues,

1 chiefs, how to be heard and how to please. The victim does not count in any way.  
2 But the killers know that what they're doing is bad. It is possible that there is no  
3 ideological previous mindset. It is not central for the Anti-Balaka. Every day they  
4 had to think about how to improve productivity and work: Where to bury the  
5 bodies, can they bury the bodies on site or take a truck or a rickshaw to bury them in  
6 the mass grave. These were testimonies of a victim who played dead and who is  
7 hearing everything that was going on.

8 Your Honours, the document of the confirmation of the charges confirm the gravity of  
9 the crimes committed. They are crimes -- these are mass crimes perpetrated by a  
10 certain number of individuals in a situation that is completely unbalanced between  
11 those who possess weapons vis-à-vis those who do not have any and who will be  
12 murdered systematically, see hundreds, even thousands of individuals, and what was  
13 used were local tools for killing -- machetes, knives, hunting or war weapons. The  
14 horror is not just about the fate of the victims, but the conditions of life; namely,  
15 working conditions that are becoming more and more difficult, more and more  
16 difficult to endure, more tiring, whether it be killing people on a daily basis,  
17 managing bodies, the odour, the smell, the cries that become unbearable, and this is  
18 precisely what these perpetrators of these crimes are talking about this.

19 But the reality is that the impact of the crime and the harm caused to the victims and  
20 their families are of an exceptional gravity. In such a case, we have to recall the  
21 position of the Pre-Trial Chamber which aligned itself on the jurisprudence of ad hoc  
22 tribunals; namely, and I quote: The gravity requires taking into account all factual  
23 data and, namely, the nature of the act or the omission, the context in which it took  
24 place, the personal situation of the victim, as well as the physical, mental and moral  
25 effects of the act on the victim.

1 This is the TPIY, second Chamber, Vasiljevic judgment, IT-98-32-T, 29 November  
2 2002.

3 In other words, the jurisprudence shows that the qualitative approach of the specific  
4 gravity corresponds to the circumstances linked to the commission of the crimes.

5 And this is an eminent jurist who commented on Article 53 of the Rome Statute, Mr  
6 Bitti Gilbert. These grave crimes must not go unpunished. Impunity, Mr President,  
7 your Honours, impunity is an element of reconciliation in the Central African  
8 Republic and an opportunity for victims to grieve.

9 Your Honours, the concerns of the victims, if the charges are retained, are the  
10 following: They are asking for a reasonable time frame, fair compensation for the  
11 harm done, because the situation -- the security situation, rather, today in the Central  
12 African Republic is obviously one that is creating difficulty for the victims in their  
13 daily lives. They are unable to look forward and even envisage reparations. With  
14 the palpable tensions in the current context with the Wagner company mercenaries  
15 present and the presence of all kinds of rebels in the hinterland, what can be the fate  
16 of these victims in the case of reprisals -- rather, of a resumption of hostilities and  
17 massacres? In this respect, they have asked the Legal Representatives about  
18 measures that would be taken to avoid destruction and looting of what remains of  
19 their property and dignity.

20 Earlier my colleague cited the buildings, for example, out of many mosques, at the US  
21 embassy, at the UN, many, over 400 have been destroyed in the country. What is the  
22 fate of property in terms of diamonds, gold et cetera? Those Muslims who lost all  
23 this, all this that has been spoliated, stolen, appropriated, what is the fate of all this?  
24 Those who are collecting these, Carnot, says the speaker: Mr Abopanga (phon),  
25 who's dead of a heart attack, he was the richest of all the diamond collectors.

1 Berberati and others -- what about the Yaloke collectors in Berberati?

2 So, Mr President, with these observations and arguments, your Honours, the ICC is a  
3 pedagogical tool and the judges are using it to change prejudices and attitudes of  
4 people who are interacting and who have a responsibility to protect citizens. The  
5 Court can also be a tool of prevention that could avoid situations that would cause  
6 considerable emotional and traumatic distress. The victims in Central African  
7 Republic, Bossangoa, Gobere, Ndjo, Bossemptele, Boali, Yaloke, Carnot and Berberati,  
8 and also to mention Bangui and others, are listening to us. They hear us; they see us.  
9 Thanks to social networks and TV, they can follow us everywhere. And this is  
10 closely being monitored, your Honour. And the victims in Garam-Boulai in  
11 Cameroon, in Bertoua, Yaounde and Douala, all these people are following us very,  
12 very carefully. Victims of Chad, N'Djamena, Gore, Dossé, Doba, Moundou, et cetera,  
13 the Court has not forgotten you, and will take you out of this closed space you have  
14 been assigned to.

15 In terms of those who are in PK5, they have relative peace, but don't forget they were  
16 attacked 58 -- 58 attacks that have been documented, recorded.

17 So, Mr President, I will conclude on that note and I thank you. I also want to thank  
18 the victims who took time to listen to me because they didn't have the resources to be  
19 here. Thank you very much, Mr President.

20 PRESIDING JUDGE AITALA: [10:21:43] Thank you very much, sir.

21 Do we have other speakers?

22 Yes, madam, the floor is yours then.

23 MS DOUZIMA-LAWSON: [10:22:07](Interpretation) Thank you, Mr President.

24 Mr President, your Honours. I rise once again. I am Douzima Marie-Edith, Central  
25 African Bar, and I rise this time simply to express the feelings of the victims relating

1 to the harm suffered following what happened to them.

2 Mr President, ordinarily, when criminals act, as we have heard, they sometimes claim  
3 that they're defending others against attackers, but at the same time, these criminals  
4 go on to persecute those whom they claim to be defending. They take advantage of  
5 a specific situation to highlight their hidden agendas. And in order to achieve this,  
6 their first tool is manipulation. I can give you an example.

7 From the time of its independence in 1960, Muslims and Christians always lived  
8 harmoniously in our country. There was marriage between the religious groups.  
9 But when a certain change occurred at the helm of the country and the president  
10 became a Muslim and the Seleka was mainly a Muslim movement, then the  
11 Anti-Balaka fighters were brought or made to understand that their enemy was the  
12 Seleka.

13 International NGOs embraced that hypothesis, including Human Rights Watch. But,  
14 subsequently, in 2014, Human Rights Watch wrote the following, that the conflict in  
15 the Central African Republic that began in 2013 was not a conflict between Muslims  
16 and Christians.

17 Secondly, violence is the shortcut in order to achieving this goal without taking into  
18 consideration the nefarious consequences on the victims.

19 Now, when these people become somewhat bothered, they suddenly morph into  
20 victims and become lambs, justifying their actions. But, like my learned colleague  
21 has just pointed out, in so doing, in attempting to justify their actions, they further  
22 implicate themselves. They reject everything en masse, in one swoop, and refuse to  
23 repent.

24 But, Mr President, you know very well that there is no smoke without fire. So, what  
25 would the interests be for so many people to rise up and complain that they were

1 victims of such-and-such a case, and ask for justice; whereas, they, these victims I'm  
2 referring to, do not know themselves?

3 Mr President, application forms for participation in the trial are individual forms.

4 How can anyone in Bangui describe the same facts in the same manner as a victim

5 from Bossangoa? You see, the events of December 2013 happened more or less at

6 about the same time in Bangui and in Bossangoa, and the narratives of the victims,

7 particularly when it comes to the *modus operandi*, are similar from one victim to the

8 next. There was deprivation of liberty, and I want to mention a number of victims

9 who said more or less the same thing.

10 Victim a/7102, Victim a/71008/22 --

11 THE INTERPRETER: [10:27:28] Mr President, the speaker is going too fast and we

12 don't have the material.

13 PRESIDING JUDGE AITALA: [10:27:36] Madam, kindly slow down.

14 MS DOUZIMA-LAWSON: [10:27:41](Interpretation) Thank you, Mr President. I'm

15 sorry.

16 The fact is that when a parent is abducted or a relative is abducted and taken to the

17 Yamwara school, particularly as was the case in Bangui, the fact that their relatives

18 were transported to the *École de la Liberté* or their parents to the *École de la Liberté* and

19 that they subsequently disappeared and to this day, nine years after, nothing is

20 known, well, Mr President, it is clear that this is a loss of liberty which is punishable

21 under the Rome Statute.

22 When it comes to the current conditions of living of the victims, Mr President, let me

23 insist on the negative consequences of rape. I am referring here to group or

24 collective rape in most cases. These problems include, number one, health problems,

25 gynaecological problems that women and girls experience after having been



1 collectively raped. A lot of them have talked about depression, nightmares and  
2 stress, and anguish.

3 Mr President, in Africa in general, and more specifically in the Central African  
4 Republic, rape is a taboo. When one is a victim of rape, one is stigmatised. One no  
5 longer belongs to the community. Your community and -- your husband, rather,  
6 would reject you simply because you have been raped, and because you have been  
7 raped, you are considered to be dirty and you are no longer yourself, you have to  
8 build back your life. You see, when one is so stigmatised, one can no longer lead a  
9 normal life as other persons.

10 Mr President, another consequence of rape is the following: The rape victim no  
11 longer feels the desire for sexual relations with a man.

12 Turning to murder, Mr President, in Africa, and particularly in the Central African  
13 Republic, an individual may be responsible for more than 10 persons. In this regard,  
14 the indirect victims of these crimes have informed us that when a pillar of a family  
15 has been killed, what happens instantly is that the children can no longer attend  
16 school. Instantly, the family no longer has food on a daily basis; the family slumps  
17 into poverty and they become beggars.

18 Now, turning to looting and its consequences as well as the destruction of property,  
19 Mr President, your Honours, how does one deal with a situation arising because of  
20 the conflict and because of the war in which one has to flee one's neighbourhood and  
21 one's country. When calm has returned and you go back home, you no longer have  
22 a house because it has been destroyed, or your house might still be standing but it no  
23 longer belongs to you because those who initially hurt you have occupied the house.  
24 How do you deal with that? How do you resume an ordinary life, normal  
25 livelihood?

1 Mr President, those are the several consequences that these victims experienced and  
2 they are calling for justice to be done for them.

3 Mr President, we were spared a genocide because in the end Central Africans  
4 understood what the motives behind the manipulation were and what was behind  
5 the conflict. It is true that families were dislocated, some families were forced to rent  
6 houses, but were unable to pay the rent and were, therefore, thrown out and thus  
7 became vulnerable. Today, the victims want to know the truth about what  
8 transpired. They want to know why. Why me? What did I do?

9 Mr President, your Honours, it is only when the victims would have known the truth  
10 that big reparations would have started, that some kind of solution would have been  
11 initiated and some comfort would have been brought to the victims so that they can  
12 live again and build their lives again and have some measure of consolation.

13 Thank you very much.

14 PRESIDING JUDGE AITALA: [10:35:28] Thank you very much, madam.

15 The floor is for the next representative of the Common Legal Representatives of  
16 Victims.

17 Go ahead, madam. Go ahead.

18 MS RABESANDRATANA: [10:36:22](No interpretation)

19 THE COURT OFFICER: [10:36:51] (Overlapping speakers) Unfortunately there is no  
20 interpretation.

21 PRESIDING JUDGE AITALA: [10:36:53] Excuse me, madam. Hold on a second  
22 because we have a problem with interpretation.

23 THE INTERPRETER: [10:36:56] My microphone was switched off. I'm sorry.

24 PRESIDING JUDGE AITALA: [10:36:59] All right. Would you kindly start all over  
25 again so we can get interpretation? There was a technical issue. Thank you very

1 much, madam.

2 MS RABESANDRATANA: [10:37:12](Interpretation) Good morning.

3 I want to conclude our arguments on the merits this morning, Mr President, your  
4 Honours, by referring to a charge which was somewhat broached but which we may  
5 want to delve into further from a victim's point of view, because there is a lot that can  
6 be said about that charge to transmit and to, so to speak, expose to the general public.

7 I want to talk about deportation and forced transfers of civilian populations. I will  
8 illustrate this point by referring to the situation of the victims in camps. The  
9 deportations and forced transfers of the population can be talked about in terms of  
10 the victims who are refugees in camps in Chad. Those victims come from Bangui,  
11 from Bossangoa, from Berberati, and from M'Baïki, from Lobaye, from Yaloke, from  
12 Carnot and from a host of other small villages here and there. As you have already  
13 been told, most of them, as you can imagine, are mostly women and  
14 children -- spouses, relatives, brothers, parents were killed. Their nationality  
15 was -- is mostly Central African, most of whom were born in the Central African  
16 Republic. Before they were expelled, they represented the second and even the third  
17 generation of people who were of Chadian origin. These victims feel deeply to be  
18 Central Africans, but in the eyes of the Anti-Balaka, their religious belonging meant  
19 that they were foreigners and, therefore, enemies. So we have talked about  
20 manipulation, the infamous manipulation.

21 You see, in 2014, the interministerial commission on the census of these people -- and  
22 this commission was set up by the government of Chad at the time -- reported as  
23 follows: That in June 2014 -- that is between 5 December 2013 and June 2014 --  
24 some 10,000 victims, 10,000 of them resided in those spaces that were created at the  
25 borders along the Chari River, including sites such Sido, Yare (phon), including

1 children, unaccompanied children without families and so on and so forth. Three  
2 hundred and thirty-seven of them were identified in June in western Logone at Goré  
3 and Doba sites. Six hundred and seventy-one unaccompanied children were  
4 identified and recorded. At Bitoi (phon) in the western Logone, and in Moundou.  
5 That site in Moundou was a transit site at which people would go through Cameroon,  
6 which is a neighbouring country which shares borders with the Central African  
7 Republic and Chad. And then there was also N'Djamena, the capital.  
8 All those people included traders, collectors, artisans, herdsman, cattle breeders and  
9 all types of businesspeople who were active in the Central African economic system.  
10 Some of the women had a social status. They had businesses and they were traders  
11 themselves or they were housewives enjoying some comfort and ease in their homes.  
12 Some of them were petty traders in foodstuff; some of them did little jobs here and  
13 there. But they lost their families following what has just been explained to the  
14 Court following those murders and massacres.  
15 These women today have lost every measure of social existence. They have lost their  
16 dignity. They stay in camps, in areas that are far off, and under deplorable living  
17 conditions, with no access to health and to schools for their children, and where such  
18 access were even available, it is precarious because it is based on external  
19 humanitarian funding, and you know what these problems are all about, especially  
20 when it comes to women. A school might be dotted here and there, and then  
21 another one here and there, a primary school, but most of the time there are no  
22 schools at all. So, without a house, without a school, without money, without health,  
23 and when one survives only on humanitarian aid, this means that these women are  
24 victimised twice.  
25 As has been explained to you, they now have to raise orphans -- the children of their

1 brothers and their sisters, and their parents, their relatives, their cousins and so on  
2 and so forth; whereas they themselves remain particularly vulnerable. As you have  
3 just been told, particularly after they have been victims of sexual rape, these women,  
4 these widows, suffer double harm and they need extraordinary courage.

5 This situation of the victims that I have described to you, pertaining to the victims in  
6 the camps in Chad, is not an isolated narrative; it relates to several other hundreds of  
7 Central Africans in various enclaves in different locations.

8 And that now brings me to the issue of the harm suffered by all the victims who are  
9 condemned to suffer in unbearable conditions where disease spreads, where there is  
10 no money. They continue to suffer physical and moral damage or harm.

11 The physical harm they suffer has been described to you: No water, no health, no  
12 medication, injury to their dignity, deaths in the camps, moral damage because they  
13 were eyewitnesses to killings, psychological trauma, humiliation, stigma and what  
14 have you. Material loss: Homes that were destroyed and abandoned. They have  
15 no subsistence resources any longer, they have no resources any longer, and they,  
16 therefore, no longer give value to their own lives.

17 All this harm and prejudice has not yet been processed. It is not too late to deal with  
18 them, particularly when it comes to psychological trauma. It is important because  
19 these people are in exile. They are removed from their roots in the Central African  
20 Republic. They have no place to transplant their roots. And even those who may  
21 have that possibility, for them, it still remains a very fragile transplantation. How  
22 can you take ownership of land which has been forced upon you? You have been  
23 cut off from your roots and you have been replanted forcibly on another piece of land,  
24 all of that in a context of war and violence. These people, these victims, they become  
25 disconnected from their cultures, and this is extremely difficult. It is almost

1 impossible to ensure that future generations will remain connected.

2 My message is to tell you that it is important for these adults, these victims, regardless  
3 of their age, need to find some peace, by finding settlement in their emotions, by  
4 narrating their story, the story of their families and the transformations that their  
5 families have gone through in a manner that can be transmitted and in a manner that  
6 deals with feelings of revenge and violence and injustice.

7 That is it. That is what happened in the Central African Republic, this country  
8 which at the time of its creation, and even subsequently, was proud of its ethnic  
9 diversity, its cultural diversity and its religious diversity.

10 During the national day celebrations, it was often recalled that it was absolutely  
11 important to preserve national unity and social cohesion and peace.

12 Mr President, your Honours, and those of us in the courtroom, as well as those  
13 listening to us, this is where we find ourselves today in 2023, dealing with the fate of  
14 the civilian population that has been displaced.

15 All they want is a simple thing: A little bit of wellbeing, the ability to live well so  
16 that their daily lives may be peaceful and so that they may have peace.

17 Thank you.

18 PRESIDING JUDGE AITALA: [10:51:05] Thank you very much, madam. You're  
19 done? Okay. Thank you, very much. Okay.

20 Then the submissions on the merits of the Common Legal Representatives of Victims  
21 are finished.

22 A small clarification: The first speaker on behalf of the victims, *Maître Fall*, referred  
23 in the French transcript to "Article 28". Then this was reported as "Article 22" in the  
24 English transcript. This will be aligned, but also referred to responsibility of the  
25 "commander in chief". This is just to clarify that in the document containing the

1 charges, it is not alleged that Mr Mokom was the commander in chief, and there is no  
2 charge under the mode of liability of Article 28.

3 This is, of course, without prejudice to any decision that the Chamber may take  
4 eventually, but this is just to clarify that it is not alleged in the DCC, none of the two,  
5 neither Article 28 nor that Mr Mokom was the commander in chief of the Anti-Balaka,  
6 as you have said. This is just for the records.

7 MR LAROCHELLE: [10:52:40] Your Honour, I realise it's my turn. With your leave,  
8 could we take the half hour break now so I could shuffle my papers around and be  
9 ready to start at 11.20 and go until the lunch break, with your leave.

10 PRESIDING JUDGE AITALA: [10:52:56] Yes, absolutely. We do this. We'll  
11 reconvene in 30 minutes at 11.25.

12 MR LAROCHELLE: Much grateful, your Honour.

13 THE COURT USHER: [10:53:09] All rise.

14 (Recess taken at 10.53 a.m.)

15 (Upon resuming in open session at 11.28 a.m.)

16 THE COURT USHER: [11:28:55] All rise. Please be seated.

17 PRESIDING JUDGE AITALA: [11:29:06] Good afternoon.

18 Maître Larochelle, the floors is yours.

19 MR LAROCHELLE: [11:29:17](Interpretation) Thank you, your Honour.

20 Your Honours, (Speaks English) we are here for a confirmation hearing. My  
21 comprehension of what a confirmation hearing is, is that it has a very low threshold.  
22 It's like a drawing test. Can the Prosecutor draw Mr Mokom in a crime under the  
23 Statute? If he can do that, let's go see what that picture is worth.  
24 But can you do it, please, on the same page. You cannot draw Mr Mokom on one  
25 page and then draw crimes with horrible, bloody pictures, satellite imagery, and

1 come before you and ask to confirm that. That has to be rejected.

2 The case theory of the Prosecutor, your Honours, is a bit like a butterfly. When

3 Mr Mokom was arrested, he was arrested for having committed crimes. He was

4 arrested for having enrolled child soldiers. This is all out of the window.

5 You have heard now where the butterfly of the Prosecutor stands as we speak today

6 in the last minutes of their submissions. Foreseeable consequences, this is where we

7 are standing as we speak today -- foreseeable consequences of crimes committed by

8 who? Crimes committed by the Balaka and now they add, with the insight of

9 exculpatory evidence, "in large part".

10 That's where we are today. And I will -- I intend to demonstrate to you over the

11 course of the next few hours that even that is not true; that Mr Mokom should be

12 released and that no charges against him can be confirmed.

13 Over the course of my submissions, I will first talk about the Anti-Balaka. Who are

14 they? What is their plan? What did they do? I will talk about their walk -- their

15 walk from Gobre to Bangui. I will then talk about the attack on Bangui and, of

16 course, the attack on Bossangoa, the two major crime scenes to which the Prosecutor

17 has now narrowed his drawing.

18 I will then talk about the return of Mokom to Bangui on February 2014.

19 After me, you will hear my colleague, Kate Gibson, because we have to speak about

20 the law at some point and she claims she has understood one or two things about the

21 Prosecutor's theory and the legal ground for it, and she will address you about that.

22 She will try to catch the Prosecutor's butterfly.

23 Who are the Anti-Balaka? Two persons are already mentioned, General Andjilo and

24 General Lebene. Witness P-884 at CAR-OTP-2072-1814 speaks of Lebene, Douze

25 Puissance, a butcher from Bokangolo. The Seleka arrived in his home. They asked



1 him for money. He did not have any. They took his wife, they took his two kids,  
2 they put them in a hut and they told him, "Pay us or we will burn them". He said, "I  
3 told you, I don't have money".  
4 They burnt his entire family. He cried. He had nothing left. The only thing left  
5 for him was to seek revenge. He left for Gobere. He became a chief. And witness  
6 P-884, and this is at line, sorry, 1119 to 1193 -- he's not a bad guy. That's 884. He's  
7 not a bad guy. He's looking for peace. Nothing about his constitutional aspirations.  
8 Nothing. Did he want Bozizé back? Did he care about having Bozizé back? I  
9 don't think so.  
10 General Andjilo, we hear from him at CAR-OTP-00000911, witness P-1521. He  
11 comes from the village of Ndungu. When the Seleka arrived, two members of his  
12 family were killed on the road to Bouca. At the funeral, there was a gathering, the  
13 Seleka came and killed more people. At that moment, he stole a weapon from one of  
14 the Seleka and ran into the bush.  
15 They did not manage to capture him. They went back to the village and killed two  
16 more members of his family. He runs away to Batangafo. This is at page 37, line 22  
17 to page 38, line 13.  
18 These are some of the main -- the most important figures in the Anti-Balaka.  
19 Mokom, *la petite personne de* Mokom did not need to do anything for these people to  
20 become Anti-Balaka. After what they went through, they did not need any further  
21 motivation.  
22 And an interesting piece of evidence by P-1521 at CAR-OTP-2046-0603, at paragraph  
23 117, he talks about the trial of Andjilo in Bangui, and he says this -- he offers this, this  
24 insider:  
25 These arrests were arbitrary. People are just putting crimes on the back of Andjilo.

1 They were saying that Andjilo had given them the order to steal. In reality, he  
2 executed people who were claiming crimes in his name.

3 Who else? Who are the Anti-Balaka? Who is this movement that we are -- that the  
4 Prosecutor is trying to diabolise today? Witness P-446 says this at  
5 CAR-OTP-2118-6278:  
6 The Sudanese --  
7 It's at page -- it's at line 207 to 213 and 216 to 227:  
8 The Sudanese, the Chadians, they came. They raped our mothers, they raped our  
9 sisters, they harmed the whole population. The youth of the Central African  
10 Republic rose like a single man. They organised themselves in *auto défense* -- to  
11 defend their country.

12 And he says: I ran to Zongo to save and preserve what was remaining of my soul.  
13 We must save our country.

14 Who are the Anti-Balaka? Women, men, children - maybe, the orphans of that  
15 village of Zaire, which was razed by the Seleka, who had no parents  
16 anymore - Muslims, Christians, young people, old people, leaders, displaced people,  
17 vengeful people, ex-soldiers, bandits, sorcerers, marabouts as they call them.

18 It's everyone. It's dozens if not hundreds, at some point, of thousands of people  
19 standing up, and we are alleged to coordinate that.

20 It's the soul of the Central African Republic that the Prosecutor is calling a criminal  
21 plan today, which is put on trial by the Prosecution. There's no structure. There's  
22 no leaders. One witness says: The guy with the gun is the leader. There's no clear  
23 chain of command, and they have fluid and changing membership as they go, as they  
24 fight, as they get far away from their villages, the membership changes. This is at  
25 CAR-OTP-00000919-00001, page 15 to 17, by witness P-876. He says this:

1 The name of Anti-Balaka was adopted by everyone. They came from the 16  
2 prefectures of the Central African Republic, the 73 sub-prefectures, over 4,000 villages.  
3 We speak 263 dialects. Page 13, line 17 to 19.  
4 There is no structure. That witness says that it started when a group called the  
5 Anti-Balaka had an important victory in Bouca, and they were called Anti-Balaka.  
6 And, after that, like gunpowder, people heard about it, like a bit of a #Anti-Balaka.  
7 They all wanted the prestige going with that name because they had managed to  
8 achieve a victory, a military victory, against the Seleka.  
9 The whole population was calling itself Anti-Balaka up to 5 December 2013. The  
10 groups were independent ones from the other; page 15, line 10 to 25.  
11 There were hundreds of ComZones that were fluid, mobile, without structure. They  
12 were afraid for their lives because of the potential of reprisals after fighting with the  
13 members of the Seleka. He says this, which is also important when you have to  
14 consider who is being coordinated exactly -- he says this at page 16, line 24 to 25:  
15 It is impossible, because of this fluidity, for a ComZone to know at any given time  
16 who are all the individuals who are claiming to be Anti-Balaka in his own zone.  
17 That's who we are supposed to be coordinating from Zongo.  
18 And one topic that was alluded to by my learned colleague yesterday, the list. It's  
19 witness 966. Ah, they are doing lists of people. Why? We have been offered no  
20 explanation, but the witness who says that offers an explanation. The reference is at  
21 CAR-OTP-2031-0241.  
22 He was charged with registering the new recruits and to communicate to them the  
23 principles to respect: Don't steal, don't attack civilians, if you are caught stealing  
24 you will be tied and beaten.  
25 And he's clear at paragraph 38, if you want to join the Anti-Balaka:

1 We will register your name and you will have to abide by these rules. You don't kill.  
2 You don't steal. You don't touch vulnerable Muslim women. And you defend  
3 yourself when the Seleka is attacking.  
4 And, yes, he confirms that those names were transmitted to Dedane.  
5 When I said the chief is the one with the automatic weapon, the reference is at  
6 CAR-OTP-00000919, page 18, line 24 to page 19, line 1.  
7 Witness P-889 during his testimony, it's CAR-OTP-00000942, he says this: There was  
8 no political project.  
9 Witness P-1521 at CAR-OTP-00000911, *audience* of 2 December 2021, page 67, line 20  
10 to page 70, line 1:  
11 There is no structure. People followed the local chief from their village and they  
12 could change as they were moving around. There's no hierarchy. There's nobody  
13 over the chief with that weapon, until they put together a coordination to prepare  
14 Brazzaville -- the peace talks of Brazzaville. Otherwise, the kids were depending  
15 from their parents.  
16 Witness P-1521 also offered this very interesting piece of information, which is found  
17 to be exculpatory by the Prosecution, at page 70, line 20 to 24. What -- he says:  
18 A witness told you that Andjilo was acting under the authority of someone?  
19 That is a lie. I was with Andjilo. He would not listen to anyone. We cannot  
20 coordinate a person like that.  
21 So strike out from any crimes alleged against Mr Mokom those committed by Andjilo.  
22 He refuses to be coordinated by Mokom or by anyone else. If we knew what were  
23 those crimes -- if we could do that, but we don't know. It's just a magma of  
24 criminality without clear crimes and without clear time frames or places or  
25 perpetrators or victims.

1 And that's confirmed by witness P-2232 at CAR-OTP-00000903, page 23, line 22 to 24,  
2 line 7.

3 Was Maxime Mokom ordering Andjilo? No. The person ordering Andjilo is  
4 General Mauri. General Mauri is a marabout, and when Mauri died, Andjilo  
5 proclaimed himself a general.

6 What was the plan of these people that we just talked about? Did they have a plan  
7 to restore constitutional order or did they just have a plan to survive and try to get  
8 security and safety in their own villages.

9 The evidence -- and you can look in our table, is replete with illustrations of that.  
10 They only had their love of their country and the belief that they were doing the right  
11 thing. What did they do first, these Anti-Balaka? What was their call -- their de  
12 Gaulle call to liberation, what was it? What was the triggering point? The moment  
13 when we can say it seems to start there. It's Gobere. It's this meeting in Gobere.  
14 In this gorgeous and mysterious country that is the Central African Republic, they  
15 had a call for arms to go to Gobere where there was a ritual ceremony and they  
16 received gris-gris to protect them against AK-47 bullets and axes.

17 These gris-gris were giving them magical, mysterious powers that would allow them  
18 to liberate their country. After nine years of investigation, I think we should know  
19 what's in those gris-gris, how did they work. Were they effective? We know  
20 nothing. Nothing. We just know -- don't tell any Central African person that the  
21 gris-gris do not work. Don't tell them that. And they have proof, they have proof  
22 that it works.

23 They liberated Bangui, so the gris-gris must work. It's a self-fulfilling prophecy.  
24 Like the Prosecutor's case, there were crimes. Mokom coordinates, he must be  
25 responsible. It's a self-fulfilling prophecy.

1 Imagine the strength of the belief in someone's mind that he goes against a guy with  
2 an AK-47, armed with pockets of unknown elements around his neck. Maybe  
3 a screwdriver or the remaining of a chair -- I don't know.  
4 We see them in some of the pictures. We see them. They barely have clothes, and  
5 these people they walk barefoot, and for the power of the gris-gris to work, if you  
6 wanted to have that protection against axes and AK-47 bullets, you needed to respect  
7 those prescriptions that you had signed for when you joined the Anti-Balaka.  
8 P-446, CAR-OTP-2059-1602, line 552 to 584.  
9 Everybody knows that a true Anti-Balaka will not steal, will not loot. They must  
10 take an oath before wearing the gris-gris and before the gris-gris actually effectively  
11 protects them. The sorcerers of the Central African Republic are the founders of  
12 international humanitarian law. They had principles and regulations that protected  
13 the civilians; that made sure that they would not harm innocent people. And what  
14 he says also in those lines is that it's very difficult to discern who is wearing real  
15 gris-gris or fake gris-gris. They are easy to imitate, and we see what impact this can  
16 have in the crimes that are committed in Bangui.  
17 So these people, armed with their *gris-gris* and their -- what they could find, they  
18 went barefoot from their respective villages, walking hundreds of kilometres  
19 converging to Bangui, and, when you read the evidence, this was no small endeavour.  
20 There were battles. Battles in Bokangolo, battles in Bouca, battles in Bossembélé,  
21 battles in Benzambe, battles in Bozoum, battles in Bossangoa.  
22 Is there any place in this country that doesn't start with a B? Yes, there is: Ndjo, the  
23 battle of Ndjo. And for that one -- I will come to it a little later, but we will speak  
24 about the battle of Ndjo, because the Prosecutor went a little fast on that one, and we  
25 have the description of some of these battles on their way to Bangui.

1 I want to read the evidence of witness P-966, who was involved in some of these  
2 battles, on 4 April 2022, CAR-OTP-00000950-000001, and I'm going to read from  
3 page 40, line 4, to 40, line 25.

4 "Question: Now, one last question."

5 Asks the Prosecutor. This is the question:

6 "Concretely, we are not yet there. How do you know that there were in fact two  
7 Seleka groups on the two sides and that you were in fact stuck in the middle and you  
8 had to cross the river? How did you know that there were Selekas who were  
9 surrounding you, who were sandwiching you?

10 Answer: Thank you. We had already battled with them in Bossangoa.

11 Immediately after that, they called for reinforcements from Bozoum, and these  
12 reinforcements had to attack us at l'Ouham while we were crossing the l'Ouham.

13 When we were advancing, they were chasing us, and the reinforcements were coming  
14 from in front of us. And so, as a result of that, we were compelled to disperse inside  
15 the bushes.

16 Those from Bossangoa were chasing us, while the reinforcements from Bozoum were  
17 also coming, and therefore, they sandwiched us."

18 This is an examination-in-chief by a Prosecution, and, in my mind, it's a text-book  
19 example of why you should avoid and prohibit leading questions, because listen to  
20 what is the question of the Prosecutor after that, who maybe is not too happy about  
21 the level of coordination revealed by that spontaneous answer.

22 So what is she going to try to do? Put the plan in the witness's head and the  
23 coordination, and she asked this:

24 "Q. While you were advancing, did you receive information directly? That is, how  
25 was it possible for you to know that the Seleka had asked for reinforcements from the

1 group in Bozoum?" That would have been correct. But then she adds, the

2 Prosecutor:

3 "Did you have telephone communications at that time, or how was it possible for you  
4 to receive this information?"

5 A leading question. You are suggesting to the witness that this thing was  
6 coordinated by telephone. But the witness resisted, your Honour. And he said  
7 this answer at line 21:

8 "A. Well, what I'm telling you is not a lie. This is something that I experienced.

9 When you are confronting a force in front of you and you hear other forces coming  
10 from behind, you can feel the presence of these two forces. There were gunshots  
11 coming from in front of us and others coming from behind us. One did not need  
12 a telephone to have that information."

13 Another interesting extract where we know a little more about the events that led to  
14 Andjilo becoming completely unruly is at P-966, on 5 April 2022, at  
15 CAR-OTP-00001127. I invite you to read to page 43 to 45 and, more specifically,  
16 before that -- sorry, page 41, line 23 to 42, line 10.

17 Andjilo had brought his men from Bouca, after having received gris-gris in Gobere.

18 He was harmed in one of those fights. After that, he became completely  
19 uncontrollable. His only objective was to go to Bangui. He decided that himself.

20 Neither Dedane nor 12 Puissances, who he was respecting in Gobere, had any control  
21 over him.

22 To progress towards Bangui, he was not respecting instructions or orders. He was  
23 fighting. Getting weapons from the Seleka. People were joining his group. He  
24 was commanding them. He was controlling the acts from Bouca to Bokangolo. No  
25 one dared giving orders to Andjilo. He took the command, he was giving orders



1 and he was feared.

2 It's at page 43 to 45 of the last reference I mentioned.

3 Witness P-966, at CAR-OTP-2031-0241, explains that -- at paragraph 47, they are  
4 finding weapons hidden in the mosques. There are weapons hidden in some  
5 mosques.

6 Which ones? Why can't we have a clear picture? If mosque A is used to store the  
7 weapons that are used to inflict this harm on the Central African Republic population,  
8 I am sorry, it does become a legitimate target. So among this endless lists of  
9 mosques that was mentioned by the Prosecution, which ones were containing  
10 weapons? Which ones were not?

11 We don't know. We don't have a clue. Why? Because we look at satellite images,  
12 it doesn't show the weapons in the mosques. It doesn't show who destroyed them  
13 either. Was it vengeful people? Also that's in the exculpatory material, was it the  
14 vengeful people in the community who finally relieved and delivered from the Seleka  
15 warlords? Took justice in their hands? It is everywhere in the evidence. And we  
16 need -- even -- and if I was on the Prosecution side, and, okay, so some mosques have  
17 weapons even, maybe the fact that some mosques contain weapons, maybe that  
18 doesn't make them yet a legitimate military target but, unfortunately, the  
19 investigations -- the case as presented to you does not even allow us to have that  
20 discussion.

21 We have satellite images, and we have these battles that are occurring everywhere.  
22 We just have like bits and pieces and sketchy information about -- just as I said, they  
23 are authors in their -- and who committed them.

24 There is one of these battles that stands out and that's the battle of Ndjo. And,  
25 your Honours, to talk about this one, it's -- the battle of Ndjo is mentioned in box 150

1 of annex C1 to the DCC, and I will need to go into a closed session briefly to discuss  
2 that one, please.

3 PRESIDING JUDGE AITALA: [12:02:09] Yes.

4 Mr Court Officer, kindly we go into closed session.

5 (Private session at 12.02 p.m.)

6 THE COURT OFFICER: [12:02:25] We're in private session, Mr President.

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1 (Open session at 12.09 p.m.)

2 THE COURT OFFICER: [12:09:25] We are back in open session, Mr President.

3 PRESIDING JUDGE AITALA: [12:09:29] We are in open session.

4 Please continue, Mr Counsel.

5 MR LAROCHELLE: [12:09:35] If we look -- if we can project - if it's not too much of

6 a problem - the newspaper article of 22 September 2013, which bears ERN number

7 CAR-D34-00000140-R01. Newspaper article --

8 PRESIDING JUDGE AITALA: [11:26:42] Evidence channel --

9 MR LAROCHELLE: [11:26:42] -- for which I gave the reference is dated 22

10 September 2013. That date is important. It contains -- so the date 22 September

11 2013, and it relays on page 2, a picture. And what does that picture say?

12 (Interpretation) "Seleka members have fallen into a trap." (Speaks English) So we

13 have an article of 22 September 2013 talking about the battle of Ndjo; so the battle of

14 Ndjo has occurred a few days before 22 September 2013.

15 And the DCC -- the annex C1 to the DCC, at paragraph 35, mentions the incident of

16 the pickup that was brought with victims to Bangui. It's a few days before 5

17 December. So these two events are not the same.

18 Now, if we could project CAR-OTP-1 -- I'm sorry, CAR-OTP-00001168. This is a CST,

19 a call sequence table of phone calls -- I'm sorry.

20 PRESIDING JUDGE AITALA: [12:13:20] Hold on, we don't have it yet on the screen.

21 MR LAROCHELLE: [12:13:23] Okay. No, I'm just describing the document.

22 PRESIDING JUDGE AITALA: [12:13:25] Okay, just please continue. Here we are.

23 MR LAROCHELLE: [12:13:27] This is a CST that was communicated to us by the

24 Prosecution of the calls between Mokom and Dedane, who is alleged to be

25 coordinating the manoeuvres and everything during the Ndjo attack.

1 Your Honours, there is not a single call between 10 September to 23 September. Not  
2 a single call. 2232 made this up. He invented that. And it's confirmed by the  
3 statement we have produced, the statement of witness D-4, which is found at  
4 CAR-D34-00000101-R01. He is a participant in the Ndjo attack. He confirms that it  
5 occurred in September; he confirms that there were no other attacks at paragraph 17.  
6 He recognises the pickup that they have managed to break from the Seleka. He  
7 confirms that they fought against Seleka soldiers at paragraph 11 and 12. He also  
8 says at paragraph 18, there is no network coverage in Ndjo. It's in the middle of  
9 nowhere. And he mentions the persons who were present, and Dedane is not there,  
10 he's not mentioned. In his statement he explains that he saw him a few days after  
11 that.

12 So now you understand why we moved rather quickly through the Ndjo attack.  
13 Mokom did not coordinate the battle of Ndjo. The battle of Ndjo anyway did not  
14 happen as Witness 2232 is telling us in the way he's suggesting it did.  
15 That which should have been front and centre of the Prosecution's submissions is  
16 buried. So there is no concrete, tangible, precise evidence about any battle that  
17 Mokom would have coordinated before 5 December.

18 And I invite you to search -- there is other references to the battle of Ndjo in the  
19 evidence. There are priests and imams who ran into that battle by chance with  
20 accurate dates of when it happened and you will see. It's under 15 -- I don't have  
21 these references with me, but I'm happy to provide them after the hearing.

22 So what else? Mokom -- there's no evidence of some coordination of an attack that  
23 led to civilian casualties or other crimes. So what does the Prosecutor tell you?

24 Well, there's other contributions, there's other means through which he facilitated or  
25 implemented or he should have foreseen, or there's other ways we can draw Mokom's

1 face on the same sheet as these crimes, they say.

2 What else do we have? Money. The money. Here, unfortunately, there's not

3 a single trace of a transaction, not a single piece of paper, a Western Union receipt,

4 a bill. Witness 2232 at paragraph 66 of his statement, 2090-0561, he says Mokom sold

5 his house and got the money transferred to support the Anti-Balaka. The sale of

6 a house is there, a more easy thing to trace and to find, go see the new owner: When

7 did you acquire this house? Thank you. Who did you bought it from? How

8 much? Did you pay cash or credit or did you transfer the money to Zongo at the

9 Western Union counter?

10 And as expected, 2232 provides rich details about money transfers and important

11 amounts of money. She transports huge amounts of money across the river.

12 She mentions -- this is at paragraph 66 to 70 of the statement I just mentioned.

13 By the way, in the DCC, it's annex C1, box 142 says that the house was in Zongo.

14 Mokom was a refugee in Zongo. He did not have a house there, so -- but when you

15 read paragraphs 66 to 70, you will see that all these transactions, these transfers, these

16 shipments, these medicines, everything was done with the assistance of a lady, a lady

17 which I will not give her name to -- for safety reasons. Let's call her Madam Pistache.

18 She does everything for him, everything. Madam Pistache gave us a statement.

19 She's D-008, and the statement is at CAR-D34-00000098 at paragraph 10:

20 "I never did that."

21 Lies. Lies. More lies to the credit of 2232.

22 And while we are on the topic of money, in the same statement, witness 2232, at

23 paragraph 76, this is at page 0572 of the document, he gives this whole story about

24 how the Anti-Balaka had roadblocks, were collecting money, transferring it through

25 the person of witness P-405 to Mokom.

1 Well, we met witness P-405. He gave us a statement at CAR-D34-00000090,  
2 paragraph 96. Lies. More lies.  
3 This witness 2232 cannot be trusted. I know it's not the purpose of a confirmation  
4 hearing, but there are way too many problems, and, more to come, to confirm  
5 anything on account of what that person is saying.  
6 I made a mistake. It's paragraph 49. I said paragraph 96. Thank you. It's  
7 paragraph 49. My apologies.  
8 So no evidence except vague hearsays about money being given to whom? By  
9 whom? How much? Your Honour, the people who talk about the money, they  
10 mention that the money is transferred -- I'm sorry. I will give you those references.  
11 Witness 876 at CAR-OTP-2046-0249 -- sorry, the correct reference is 2046-0455 at lines  
12 293 to 301.  
13 Witness 876 says Mokom was receiving money at the Western Union counter in  
14 Zongo. Whereas, according to Witness P-889, he says at CAR-OTP-2122-8002, there  
15 is no Western Union counter in Zongo. It's so small. There is no Western Union  
16 counter; so these people, anyone saying that they're transferring money or he was  
17 receiving money through a Western Union counter in Zongo is lying, like 2232 who  
18 says that.  
19 So money, I submit to you, even accepting -- taking this evidence at its best, that this  
20 was used to buy artisanal ammunition, how many? Where? What? What  
21 ComZone? An unruly one? One that committed crimes? One that destroyed  
22 a mosque with weapons in it or not?  
23 Two different sheets of paper -- okay, this is 2023, so we will talk of eventually  
24 Facebook, but for now, I want to talk about something which the Prosecutor alluded  
25 to yesterday, and that's weapons. I want to talk about this shipment of weapons that



1 was mentioned yesterday by the Prosecution.

2 Those weapons that were organised by Mokom, between two individuals, they were  
3 collected in Bangui and then those weapons were shipped out north to Bossangoa.

4 I need to go into a short closed session to address that, your Honour.

5 PRESIDING JUDGE AITALA: [12:25:52] Court officer, kindly.

6 (Private session at 12.26 p.m.)

7 THE COURT OFFICER: [12:26:07] We are in private session, Mr President.

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4 (Open session at 12.34 p.m.)

5 THE COURT OFFICER: [12:34:23] We are back in open session, Mr President.

6 PRESIDING JUDGE AITALA: [12:34:36] We are open in session. Please continue.

7 MR LAROCHELLE: [12:34:40] Thank you, your Honour.

8 So 2269 explains the battle, explains the purpose, explains some fights. He gets to

9 Bangui, it's at paragraph 83. He gets to Bangui. And what does it say at paragraph  
10 83?

11 "The Seleka were heavily armed, we had only hunting weapons and sticks [...]"

12 What? Where are the AK-47s? They are gone. The grenades, the ammunitions,  
13 the DKM machine gun? He lost them in the ground? He lost them near Bossembélé  
14 or Bouca or Bouar, or maybe he just forgot since paragraph 68 that he was equipped  
15 with these weapons. But they are not with him in Bangui. They are gone.

16 What other weapons? The Prosecutor mentioned yesterday witness 889. And  
17 witness 889, at CAR-OTP-2122-7600, at line 675 to 726, talks of one episode where  
18 artisanal ammunitions were sent over the Oubangui river on the other side. That's  
19 half the episode they described.

20 In his initial statement at 2027-2290, paragraph 35, where we had two episodes. I  
21 suggest to you that it's going to come down to zero the next time he speaks.

22 So the money can't help you. The weapons can't help you. The coordination can't  
23 help you. What do we have left? Facebook. Facebook messages. Facebook  
24 activity. Facebook coordination. Facebook directions. Facebook incitement,  
25 maybe. Facebook. What are the messages saying exactly? We heard a few

1 extracts from the Prosecution yesterday -- I can read you a few more, maybe to try to  
2 know and decipher what's happening. How does Mokom use Facebook to direct  
3 and coordinate a vast criminal plan over the whole of the Central African Republic to  
4 commit horrible crimes?

5 The first -- all these Facebook extracts are at CAR-OTP-2066-3003, at 315:

6 When -- when will you come to the border?

7 It's on 11 November. So when? That's not -- that's asking. That's not directing,  
8 that's not ordering. But even worse at -- and this is on -- you will find it on 3015, it's  
9 at -- on 11 November at 9:50:40.

10 (Interpretation) "When will you come to the border? We are waiting for you. We  
11 are ready."

12 3020, this is on 2 December 2013, three days before the Bangui attack, your Honour.

13 Mokom says this to one person: (Interpretation) "Good morning, Junior. How are  
14 you?"

15 (Speaks English) At 9:56.

16 At 9:58 the other person answers:

17 (Interpretation) "I'm fine, I'm very happy with the advance of the brave Anti-Balakas."

18 (Speaks English) And Mokom answers:

19 (Interpretation) "Where are they now?"

20 (Speaks English) The coordinator-in-chief of the Anti-Balaka is asking: Where are  
21 they? Where are the Anti-Balaka?

22 And at 3071 on 26 October 2013, at 9:03, Mokom is saying this: (Interpretation) "Good  
23 morning, I'm following closely, but I've lost contact with the elements on the ground.

24 Do you have contact with them?"

25 (Speaks English) I'm sorry, I will repeat slowly.

1 (Interpretation) "Good morning, I am following that closely, but unfortunately I've  
2 lost contact with the elements on the ground. If you have any contact -- any direct  
3 contact with them, do you?"

4 (Speaks English) What are you going to infer from that? For what? What links that?  
5 Try to link that to a crime, to the commission of a crime, and, in any case, I want to  
6 say this, that this Facebook material, I think it is very important that the Prosecutor  
7 will have to demonstrate that Mokom is the actual writer of these messages.  
8 Why am I saying that? Because there is evidence in the record that suggests that he  
9 is not and this evidence can be found there.

10 P-2232 at CAR-OTP-2100-2569 --

11 Maybe, we go in closed session for that because -- just briefly, your Honour.

12 PRESIDING JUDGE AITALA: [12:41:51] Court officer, please.

13 (Private session at 12.42 p.m.)

14 THE COURT OFFICER: [12:42:08] We are in private session, Mr President.

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- 19 (Open session at 12.45 p.m.)
- 20 THE COURT OFFICER: [12:45:35] We are in open session, Mr President.
- 21 PRESIDING JUDGE AITALA: [12:45:37] We are in open session.
- 22 MR LAROCHELLE: [12:45:38] Thank you.
- 23 PRESIDING JUDGE AITALA: [12:45:38] You may proceed.
- 24 MR LAROCHELLE: [12:45:39] Facebook doesn't work either. We need something
- 25 better. What do we have? Hundreds of thousands of phone calls. What do we

1 have? Phone calls, the phone calls. They are summarised, some of them, in annex  
2 C2 to the DCC.  
3 C2 does not mention a single crime. Does not link a single phone call. Links phone  
4 calls to the attack of Bangui, links phone calls to the attack of Bossangoa, but does not  
5 link a phone call to a crime.  
6 And if you look at C2, and, strangely enough, there is reference to the calls between  
7 Dedane and Mokom. They speak daily - if you believe that - daily. And this  
8 amount of calls, is it evidence of coordination or disorganisation? There is evidence  
9 that the network was not working properly.  
10 There is evidence that they were switching phones amongst themselves. But most  
11 strikingly, there is not evidence of the content of a single of these calls. There is  
12 a million and a half people scattered around the countryside of the Central African  
13 Republic during that time frame. These -- some of these people are related. Some  
14 of their relatives are in the bush -- lost, dead, injured. There is so much that can take  
15 place during these calls. The best evidence we have about this is again -- again, 2232.  
16 And we will have to go in closed session for that.

17 PRESIDING JUDGE AITALA: [12:47:59] Court officer, kindly proceed.

18 (Private session at 12.48 p.m.)

19 THE COURT OFFICER: [12:48:16] We are in private session, Mr President.

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4 (Open session at 12.58 p.m.)

5 THE COURT OFFICER: [12:58:15] We are back in open session, Mr President.

6 PRESIDING JUDGE AITALA: [12:58:17] Thank you very much.

7 I will now adjourn the hearing for 90 minutes, and we will resume at 14:30. Thank  
8 you very much.

9 (Recess taken at 12.58 p.m.)

10 (Upon resuming in open session at 2.30 p.m.)

11 PRESIDING JUDGE AITALA: [14:30:57] Good afternoon, everyone.

12 Mr Larochelle, you may continue your submissions.

13 MR LAROCHELLE: [14:31:06] Thank you, your Honour.

14 So we were, when we broke before the lunch, we were talking about the phone calls  
15 that -- well, the phone activity and the echoes that we had from these phone activity,  
16 and one of the echo is found in the evidence of P-889 at CAR-OTP-2122-7626, page 15,  
17 line 591 to 604. And that witness said it was inevitable that there would be victims,  
18 but even if that happened, even if the Anti-Balaka had killed some innocent civilians  
19 in their fights, they would not tell Mokom.

20 Now, with or without guns, shoes, ammunitions, *gris-gris*, Mokom's coordination,  
21 these Anti-Balaka made it to Bangui. They arrived in Bangui. And then -- it's not  
22 contested, of course, that there was an attack in Bangui on 5 December.

23 The Prosecution has, and we see it in the evidence and I will give you a very  
24 interesting example, has this obsession with trying to demonstrate that it was  
25 coordinated. It's obsessive. And I will show you why sometimes it becomes even

1 excessive. And for that I would like first for you to take the statement of 884,  
2 CAR-OTP-2080-1678 at page 1702.  
3 This is exculpatory evidence. So what do we have there?  
4 From line 817 -- and I will speak French now: (Interpretation) "So" -- (Speaks English)  
5 So the interviewer 2 is asking: What was the result of Mokom, or Ngaïssona, or  
6 Bernard Mokom organising through them to come to Bangui?  
7 Translated as: (Interpretation) "So, the fact that all these groups are coming to  
8 Bangui, this is the result of the work done by Maxime Mokom, Ngaïssona ..."  
9 So the fact that all these groups are coming to Bangui, that is the result of the work  
10 that was being done by Maxime Mokom, Ngaïssona, Bernard Mokom, so that all  
11 these groups could come to Bangui?  
12 No, but -- (Speaks English) but did they do that spontaneous?  
13 (Interpretation) "As I am telling you, these are things that happened spontaneously?  
14 The person heard spontaneously.  
15 Interviewer 1: ..."  
16 (Speaks English) And the witness 884 said:  
17 (Interpretation) "Yes, yes."  
18 (Speaks English) And when this was played and used in court, and this is in  
19 transcript CAR-OTP-00001058 at page 16, line 8 -- 16, line 8, to 16, line 23.  
20 The Judge Schmitt sees that and he says: This is a very interesting technique, to  
21 suggest the answer in your question. Very interesting.  
22 And when you look at page 1 of that interview, you will find that the interviewer  
23 number 2 is Mr Kweku, preparing on the ground, trying to blow life in this  
24 coordination theory that they will hold against all wind. It's not me who sees  
25 the dangerous character of asking such questions, it's Judge Schmitt, when he saw it.

1 This plan is in the Prosecutor's head. This is where it exists.

2 And this plan, or this planification of the attack of Bangui, there are four different

3 theories in the evidence about it, four: One, it's Maxime Mokom, Witness 2232,

4 Maxime Mokom. CAR-OTP-2100-2569, paragraphs 32 to 38.

5 Then you just saw the evidence of Witness 884, it was spontaneous.

6 Then Witness 1521 provides more detail and explains that it was those leaders on the

7 ground, those leaders that were behind the hill that arrived there in successive waves.

8 They are the ones who themselves, amongst themselves, being aware of the reality of

9 the terrain, of where they were, where their elements were, how many men they had,

10 who devised the plan.

11 And for that I would refer to 1521, his transcripts of 13 November 2021,

12 CAR-OTP-00000909. And I'm referring to extracts found in pages 51 to 56.

13 At page 51, line 19 to 22, Witness 1521 says: Because before 5 December there wasn't

14 a chain of command as such. Everybody had their own elements and if there were

15 decisions taken it was by consensus. We discussed and we came up with the idea.

16 Then, at page 52, line 8.

17 Question: Who decided that the attack should take place on 5 December?

18 Answer: I think at the time there were 50 elements and their leaders.

19 And then he explained that these elements decided together where and how and who

20 would attack for 5 December.

21 At page 53, line 9, he mentions who his chief was -- I will not mention it here for fear

22 of identifying, but you can look at line 9 who the chief of 1521 was: Did he tell you,

23 that person, who he got his orders from?

24 Answer: "No, he did not get orders from anyone because, in my opinion,

25 the commander of the men, he did not get orders.

1 My question was did he ever tell you where he got his orders or directions from, not  
2 what your opinion is or whether he got them.

3 So I was with this group under his command. I never heard him getting orders from  
4 anyone. If I had heard that, I would tell you, but I don't want to lie."

5 And there -- here you have another example of all the ways that the Prosecutor is  
6 trying to create that plan, to blow life in the plan.

7 So the question here at page 54, line 19:

8 Andjilo was not from Bangui; am I right about that? ... He was not from Bangui; isn't  
9 that right?

10 Answer: Yeah, he came from the country. We know.

11 Question: So how did Andjilo know where Hotel Ledger was?

12 He's not from Bangui. Maybe we will find here he got some phone calls or  
13 directions, this coordination that we need.

14 Mr Prosecutor - that's the answer - I think that the Anti-Balaka movement is a popular  
15 revolutionary movement. When they were behind the hill they were supported by  
16 everyone, by the population, who gave them information.

17 And: Andjilo, when he went, he was led by people. You see what I mean? He  
18 didn't go down on his own.

19 The population of Bangui met with their liberators and walked back with them.

20 They were so happy to see them arrive.

21 There were other people, people who knew the area, who knew where the Seleka  
22 were. And so there were also other elements, others leaders who were familiar with  
23 the area, who were from Boy-Rabe, for example, so also knew what was the situation  
24 there.

25 And then we need more coordination, line 13: Well, you didn't decide it behind

1 the hill because the hill is where you came to. So it was decided before you got to  
2 the hill; isn't that right?

3 Answer: No. No.

4 When will you understand? That's me, that's not the witness, sorry:

5 That's not how it was. I said that we all came together behind the hill. Those who  
6 came from out of town from there, those who crossed Oubangui River were there.

7 Those who had left Bangui and joined the movement in Bangui, they were there too.

8 So together it was decided, while we were there, that the decision was made. We

9 didn't decide in advance to have this attack. And those had left Bangui who

10 explained what the situation was told us where the Seleka people were, where their

11 bases were. They gave indications to those who come from the provinces so that

12 a decision could be taken to proceed with the 5 December attack.

13 And the Prosecutor gives up, page 56. And from what you're saying, it sounds to

14 me like you're saying that they all just happened to be there and then, once they

15 found each other there, they decided to carry out an attack.

16 To be honest, that defies any logic, not only defies the Prosecutor's logic.

17 (Microphone not activated) people talk about the December 5 attack. 884, for

18 example, at CAR-OTP-2080-1678, he explains at line 1417 to 1465, he says: Initially,

19 the attack was supposed to take place on 1 December, the day of the national holiday.

20 And you know what he says after that: But they refused to do it because they were

21 fearing that it would cause too many civilian casualties, with all the civilian in

22 the street for the national holiday. So they pushed it back to the 5th.

23 And then he's asked: Who was involved in this attack of 5th? In Boy-Rabe, for

24 example?

25 Answer: The whole population. Boeing? Answer: The whole population.



1 Everyone fights. The women are out and participating in the fight.

2 P-446 at CAR-OTP-2059-1672, at line 772 to 779: Who decides the sharing of

3 the group? At that point it's Andjilo and Konate with some other responsables who

4 dispatched the group so that we could do and perform these attacks.

5 P-446 again at CAR-OTP-2059-1696, that's also found to be exculpatory by

6 the Prosecution. Who gave the target?"

7 At line 66 to 99: There was a gathering on the eve of the 5th. The targets were given

8 by Andjilo and Konate and also present were Bejouane, Ngaïssona, Mokpem,

9 Ngaibona, Andjilo and Konate. And at this occasion the people reminded

10 the Anti-Balaka, the people present, that the Anti-Balaka should not loot, that they

11 should not touch what does not belong to them, because their *gris-gris* would not

12 work.

13 P-446 now at CAR-OTP-00000934, page 37, line 14 to 38, line 4: The Anti-Balaka

14 behind the hill are joined by the local population.

15 At page 44, line 17 to 22: Even during the attack people were coming out of their

16 neighbours, of their -- of their houses and joined the attack.

17 And who organised the attack, page 45, line 15 to 24: We met the night before, we

18 divided the teams, Konate and Andjilo spoke and attributed the targets. Konate, you

19 take Camp Kassai. Bawa, you go to the Sapeurs Pompiers, Andjilo too.

20 P-446 again at CAR-OTP-00001117-00001, page 20, line 14, to 21, line 2:

21 The Anti-Balaka decided to withdraw to avoid a bloodbath.

22 That's part of the record of the Prosecutor.

23 And there's a fourth theory, there's a fourth coordination theory that I want to discuss,

24 because if I had seen it in only one witness I would rule it out. But because I see it in

25 many, you should be informed. It's the French, the French that did that.

1 The French people were in touch with these Anti-Balaka on the 5th. They promised  
2 them that they would bring night-vision gear to assist them if they're doing it at night.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

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- 9 (Redacted)
- 10 (Redacted)
- 11 MS VON BRAUN: [14:55:10] (Redacted)
- 12 (Redacted)
- 13 PRESIDING JUDGE AITALA: [14:55:18](Microphone not activated)
- 14 MS VON BRAUN: [14:55:20] (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 MR LAROCHELLE: [14:55:48] (Redacted)
- 20 MS VON BRAUN: [14:55:50] (Redacted)
- 21 MR LAROCHELLE: [14:55:51] (Redacted)
- 22 MS VON BRAUN: [14:55:51] (Redacted)
- 23 (Redacted)
- 24 MR LAROCHELLE: [14:55:55] (Redacted)
- 25 MS VON BRAUN: [14:55:56] (Redacted).

1 PRESIDING JUDGE AITALA: [14:55:58] (Redacted)

2 MR LAROCHELLE: [14:56:00] (Redacted)

3 P-1719, CAR-OTP-2062-0039 at paragraph 130, again, reference to a meeting with

4 French troops to plan -- this one is interesting -- to plan the attack on 5 December at

5 4 p.m. So the plan with the French was that it should take place at 4 p.m. so that

6 they would come in with their night-gear equipment and assist the Anti-Balaka.

7 And then he goes on to explain after that that Konate did not agree and decided -- or

8 did not understand, it's not clear, but instead of attacking at 4 p.m., he attacked at

9 4 a.m. I don't know if it's a failed exercise in coordination or something else, but it

10 speaks volume about the exact coordination that took place regarding the attack of

11 5 December.

12 The attack of Bossangoa, your Honour, another important crime scene, and here I will

13 ask to move in a closed session for a few minutes.

14 PRESIDING JUDGE AITALA: [14:57:26] Let's move into closed session, please.

15 (Private session at 2.57 p.m.)

16 THE COURT OFFICER: [14:57:43] We're in private session, Mr President.

17 (Redacted)

18 (Redacted)

19 (Redacted)

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21 (Open session at 3.02 p.m.)

22 THE COURT OFFICER: [15:02:03] We're back in open session, Mr President.

23 PRESIDING JUDGE AITALA: [15:02:05] Thank you.

24 Please continue.

25 MR LAROCHELLE: [15:02:08] Thank you.

1 So there were two leaders for the Bossangoa attack.  
2 Kema and Ndangba.  
3 Look at what Witness P-889 has to say about Kema at CAR-OTP-00001068, page 19 to  
4 22. And you will find this at page 19, lines -- line 12 to 22.  
5 Kema's own group refuses to come to Bangui despite the instructions of Mokom.  
6 There is nothing to do. He tries to convince him to help for the other villages and to  
7 come ho Bangui. He is amongst those who refuse. So on the morning of  
8 5 December, Kema is not even where he's supposed to be if we believe that evidence.  
9 And he adds this, Witness P-889, about Kema at CAR-OTP-2122-7962, at lines 326 to  
10 328: "Kema was a military. He does what he want. He takes no orders. He is like  
11 Yekatom. He doesn't want to be commanded. He is in his corner and he doesn't  
12 speak."  
13 And he adds this at page 7985 to 7986: Kema refuses to come to Bangui, he wants to  
14 stay in his village. He refuses to be coordinated. He refuses to be coordinated.  
15 It would be an interesting question if we could attribute crimes to Kema. It would  
16 be an interesting question to see if a coordinator can be held liable for the crimes that  
17 are committed despite his coordination. But it's not a debate that we can have  
18 because we don't have the evidence foundation for that.  
19 Back to Bangui. Back to Bangui. I want to say this, that when the Anti-Balaka  
20 arrived in Bangui, not only did the -- the population that could -- a lot of members of  
21 the population joined them, as we saw, but the population cheered them,  
22 the population was happy. And that's by three different witnesses.  
23 P-446, CAR-OTP-00000939 - sorry, if there's an extra O -- those are zeros, actually - at  
24 page 5, lines 17 to 22, "When the Anti-Balaka arrived, the population initially cheered  
25 them. Unfortunately, after a while, the population turned around against a few

1 Balaka members who were committing crimes."

2 PRESIDING JUDGE AITALA: [15:06:34] Mr Larochelle, when -- try to keep pauses  
3 between sentences, because we make the work of the reporters too difficult. Thank  
4 you.

5 MR LAROCHELLE: [15:06:50] So compare this, "a few Balaka," with what  
6 the Prosecutor said yesterday, "large part". Remember that. "A large part" versus  
7 "a few Balaka".

8 Witness P-884, CAR-OTP-2072-1773, line 974 to 975: "This is what happened at the  
9 beginning of January when the Balaka came in, the population applauded them."  
10 And you will see the same thing from P-876, CAR-OTP-00000917.

11 Now, what happened? What crimes were committed when -- allegedly committed  
12 when the Anti-Balaka arrived?

13 According to P-446, he knows of no crimes. This is a Prosecution witness supporting  
14 the DCC. This is at CAR-OTP-00000936. And you will look at this person. It's  
15 interesting that he's not aware of any crimes.

16 What happens? Who commits crime?

17 1521, at CAR-OTP-2046-0603, paragraph 106. The fine people of Bangui I think did  
18 not have the same respect for the *gris-gris* as those Anti-Balaka who had arrived from  
19 the province. They were committing crimes and accusing the Anti-Balaka after.

20 According to P-884, there are crimes committed by prisoners who had escaped  
21 the prison and who were taking advantage of the vacuum in power. There were no  
22 policemen, no gendarme, no government. And those prisoners are taking advantage  
23 to settle scores. P- -- reference is CAR-OTP-2072-1356.

24 P-808 at CAR-OTP-00001105, the witness says it's not necessary the Anti-Balaka who  
25 attacked the population. It is also the population. The cases, the instances of theft

1 are systematically attributed to the Anti-Balaka despite their obvious goodwill.  
2 Everybody knows that the prisons of the Central African Republic had been  
3 destroyed, that all the bandits were out free. And this is at page 36, line 10 to 21.  
4 And he says this at page 72, lines 13 to 16. We are in CAR-OTP-00001105, I think I  
5 said it. Page 72, line 13 to 16, on 100 Balaka, a very little number, was participating  
6 in committing crimes, not a large part, a small number.  
7 This is exculpatory. How can you say -- how can you come before you and say  
8 a large part when their own evidence says a small number, a minority, taking  
9 advantage.

10 At P -- Witness P-884, at CAR-OTP-00001058 -- a very quick closed session,  
11 your Honour, just to be sure not to identify the witness.

12 PRESIDING JUDGE AITALA: [15:12:37] Court officer, let's move into closed session.

13 (Private session at 3.12 p.m.)

14 THE COURT OFFICER: [15:12:57] We're in private session, Mr President.

15 (Redacted)

16 (Redacted)

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24 (Redacted)

25 (Open session at 3.14 p.m.)



1 THE COURT OFFICER: [15:14:22] We are back in open session, Mr President.

2 PRESIDING JUDGE AITALA: [15:14:24] Thank you.

3 Please continue.

4 MR LAROCHELLE: [15:14:25] Thank you.

5 That newspaper article which I just mentioned supported paragraph 73 of the pretrial  
6 brief of Mr Ngaïssona. The same article supports paragraph 4 at line 6, 19 at line 48  
7 and 51, and 28 at line 76 of our own pretrial brief annex. A newspaper article whose  
8 author has denied ever saying that.

9 So you have to read beyond the headlines.

10 Yesterday the Prosecution provided some scrapbooking of newspaper articles. One  
11 of them was at 2079-0622.

12 If you go in the same article at CAR-OTP-2079-0636, you find this. I will speak  
13 French now because it is in French:

14 (Interpretation) "These militia members who said that they were invulnerable to  
15 weapons thanks to their mystical protection are present in nearly all of the villages in  
16 the area. Messages are being passed around in the" -- correction: "Messengers are  
17 going through the forest with a view to coordinating actions. People are watching  
18 closely. At Ndjo, south of Bossangoa, seems to be one of their main bases. Their  
19 leader, Benjamin, refuses to be called a rebel. He says that they are fighting to  
20 protect civilians. This is a war against Christians. They killed our mothers, our  
21 children, even though we never attacked the Muslims. We don't hate them. We're  
22 not fighting for Bozizé. We want change. We despise Djotodia, declared this  
23 farmer coldly who is asking for 2,000 -- 2,885 Anti-Balakas who says that there are  
24 2,800 Anti-Balaka under his orders. One of his lieutenants makes a correction.  
25 Alongside them the next Balaka member says this: he claims that he lost both his

1 children, his father and his mother. According to him -- according to him, a former  
2 rebel and trader are just the same thing. Two weeks ago, he tells us, a truck escorted  
3 by members of the Seleka movement came to get the Muslims from the town. Two  
4 days later the traders came back armed to loot the merchandise and two days ago  
5 they came again to threaten us." End of quote.

6 (Speaks English) Another article which was broadcasted yesterday at 2082-0793, and  
7 I'm reading from OTP-2082-0800:

8 (Interpretation) "For the most part these are young people, between 17 and 30 years of  
9 age. One of them couldn't have been more than 14. They came from the villages  
10 surrounding Bossangoa. They have home-made weapons that clearly they made  
11 themselves. With no true ammunition, they themselves take lumps of led and make  
12 home-made bullets."

13 Further on it says: "The leader explained to me that some are hoping for  
14 François Bozizé to return. Others, no. They are united by their will to drive out  
15 the Seleka from the area."

16 Each village (Speaks English) -- every village has a story like that with inhabitants  
17 that, if you interview them, they will tell you they have no ammunitions, they do  
18 them themselves with whatever they can find.

19 So if you want to say that Mr Mokom has supported some people, large part, small  
20 part, small numbers, it's not them, they don't have ammunitions, clearly. And some  
21 support Bozizé, some don't. So try to -- that's what the Prosecutor is drawing before  
22 your eyes. That's what he's asking you to confirm. Read beyond the headlines.

23 P-884, that's exculpatory, by the Prosecution. The Christians destroyed the mosque  
24 to avenge themselves. The Muslims destroyed the churches. There is a lot of  
25 confusion on the destruction of mosques. The Anti-Balaka burned mosques,

1 the civilians do the same thing. The mosque. And that's at CAR-OTP-00001101,  
2 page 20 -- page 55, sorry, lines 21 to 25.  
3 P-884 again, CAR-OTP-2072-1773. This is at line 891 to 897, convoys of Muslims  
4 leaving the city being attacked by angry civilians, not Anti-Balaka. They are not  
5 involved, he says, in these fights.  
6 P-446, CAR-OTP-2059-1468, lines 649 to 715. What mosques were destroyed?  
7 Boy-Rabe, Fouh. It's the population.  
8 Let's talk about the Boeing market. The Boeing market apparently was attacked on  
9 5 December. And this is by P-884 at CAR-OTP-2072-1814. He was there, he saw it,  
10 884, the morning of the 5th in Boeing.  
11 What happened at the Boeing market? What is the story? It's interesting because  
12 we get the picture. We can see. This is not a satellite image, this is what took place  
13 on the ground by someone who saw it.  
14 What happened? There are Muslim traders at the Boeing market. Who are they?  
15 A lot of them were militaries under Hissène Habré. What did they do in March 2013  
16 when the Seleka took power? You know what they did? They put back their  
17 military uniforms and started pointing at FACA soldiers and alleged Bozizé  
18 supporters. These people disappeared. Gone. Killed. Not investigated. And  
19 we live with these people for the last 20 years. They marry our sisters.  
20 And the population was saying -- the population was saying in Sango "Lawa, lawa,  
21 lawa (phon)", "We'll get back to you." Yeah, they wanted revenge.  
22 This is found at CAR-OTP-2072-1814, page 1824 to 1833.  
23 When the Seleka left, it's not the Anti-Balaka of Bouca who went and attacked these  
24 Muslim traders, it's the local population. It's soldiers who were not part of any  
25 groups. And he saw after that the local population coming and loot their stores.

1 And what was in the stores? Weapons. They found cache of weapons.

2 And he adds this at line 655 to 661: The Red Cross came and collected

3 the -- the Red Cross came and collected the bodies of these poor people that died on  
4 that day.

5 Can you attribute any of these victims to Mr Mokom? No. He has nothing to do  
6 with it.

7 And he talks about this at CAR-OTP-00001101, page 48, line 20 to 49, line 2. He  
8 reiterates here the origin of this. It's the denunciations of FACA people, alleged  
9 Bozizé. They were arrested, tortured or disappeared. That's what happened in  
10 the market of Boeing on 5 December 2013.

11 You have in the evidence and in our PEXO tables multiple evidence, examples of  
12 evidence of mosques, shops, houses, civilians participating in hostility. How does  
13 the Prosecutor deals with that?

14 At box 75 of annex C1 to the DCC, I quote: "There is no evidence suggesting that  
15 the damages or destroyed mosques constituted a legitimate military objective, nor  
16 was their destruction justified by military necessity."

17 You cannot stand up and say a thing like that when you read the case file.

18 And at -- P-446, CAR-OTP-00001115, at page 73, line 8, to 77, line 23, P-446 describes  
19 the same thing, but in Boy-Rabe.

20 Here, what he says is that after the Seleka come over the attitude of some Muslim  
21 people changed. They were showing a few -- if they were owing you money and  
22 they were trying to collect them, they would show you a gun. So that's  
23 the criminality that we're talking about.

24 And then we have spoken at length about this phenomena of the Anti-Balaka.

25 The people in Bangui, they noticed that the Anti-Balaka, they had these *gris-gris*.

1 What did they do? Fake *gris-gris*. Fake Anti-Balaka wearing fake *gris-gris*. How  
2 perfect. What a perfect -- you wear this, you go, you commit crimes. That's an  
3 Anti-Balaka who looted, who killed. That's at CAR-OTP-00000911 by  
4 Witness P-1521, and you will find this at page 83, line 25 to 84, line 11.  
5 So this is what's happening in the days following the attack. So the Anti-Balaka are  
6 overtaken from under by the fake Anti-Balaka, by bandits, by people wearing fake  
7 *gris-gris*, by the population who took advantage of their arrival and their success to  
8 settle scores, loot, kill and god knows what.  
9 But this was not all. These people underneath were not the worst. The worst are  
10 those that arrived front-up: Bara, Ngayaya, Wenezoui, Demafouth. All these, this  
11 cloud of locusts that came immediately after the Balaka took over and claimed  
12 position, took advantage of the vacuum.  
13 Witness P-808 says this at CAR-OTP-00001103, page 37, lines 12 to 25: (Speaks  
14 French) -- (Speaks English) Sorry. The people who wanted to represent  
15 the Anti-Balaka came from everywhere, from high-level networks, and they took  
16 advantage of the fact that there was no coordination in place.  
17 If there truly had been a coordination, these locusts -- that's not the witness, that's  
18 me -- would have never been able to take advantage. These people understood that  
19 to position themselves on the political scene, you had to present yourself as  
20 a representative of the Anti-Balaka.  
21 P-808, of CAR-OTP-00001103, page 52, line 19 to page 53, line 15: There were several  
22 factions of people claiming to represent the Anti-Balaka. There was Ngaissona,  
23 Kokate, Bara, Namsio, Sylvestre Yagouzou, Ngayaya, but the three main currents were  
24 those of Ngaissona, those of Wenezoui of Boeing, and that of Bara in the south.  
25 Three different coordinations, three different people claiming to represent

1 the Anti-Balaka.

2 Then Bara goes in early January to N'Djamena, also claiming to represent

3 the Anti-Balaka, to negotiate the fall of Djotodia, as I mentioned earlier.

4 And we heard -- the guy we heard on TV, Mr Yagouzou, another one of, I don't know,

5 does he represent the Anti-Balaka of the west or the east, or where?

6 It's divided in multiple groups, multiple factions. Who controls who? It's

7 confusion and chaos at its highest.

8 P-966 -- and notice P-966, this guy clearly has a grudge against Ngaïssona, because for

9 him -- and that's at CAR-OTP-2031-0241 at paragraph 95 to 99. Ngaïssona wanted to

10 use the Anti-Balaka movement to take power, but the Anti-Balaka from the provinces

11 were refusing that.

12 And P-876 at CAR-OTP-2046-0295, line 853 to 873, also seems to have a grudge

13 against Ngaïssona, because what some witnesses attribute to Mokom as being this

14 extremist constitutionalist who would prefer to fight rather than see the constitution

15 not respected, this is the evidence of the witnesses. He's an extreme constitutionalist.

16 Well, according to P-876, the extreme constitutionalist is Ngaïssona. He saw himself

17 as president of the republic. He completely recuperated the movement. He's

18 the first to come --

19 PRESIDING JUDGE AITALA: [15:36:18] Slow down, please. Slow down.

20 MR LAROCHELLE: [15:36:21] -- after the departure of Djotodia.

21 Yes, sorry.

22 P-884, CAR-OTP-2072-1582 at lines 147 to 174, the group is manipulated by its leaders.

23 The leaders want positions in the government. And he says this. He says,

24 Ngaïssona goes to see Catherine Samba-Panza alone. He discusses with her and

25 we -- for his own interest and he doesn't tell us, the child, what this is about, what is

1 he doing there.

2 The child, they just want disarmament and demobilisation, but politics wanted to  
3 recuperate the movement, but the movement did not follow. That's at line 194 to  
4 202.

5 So what did the Anti-Balaka get? What was their reward for saving the Central  
6 African Republic and for delivering Bangui?

7 A bad name. You would have put them in buses and given them a lunchbox with  
8 food, they would have returned. They just got a bad name. Everybody is taking  
9 advantage and tarnishing their name and using them to commit crimes, to get  
10 position, to travel.

11 And the Prosecutor is forwarding and conveying this story when it is contradicted  
12 everywhere in his case file.

13 Where is Mokom? He stays in Zongo until February. You think he runs to Bangui  
14 to get the position? He remains in Zongo. The moment -- the best moment,  
15 the coordinator of all of that, at the moment where he could take advantage of all this  
16 dirty work that the Prosecutor is alleging he has committed, he stays in Zongo where  
17 there is no Western Union counter, so he cannot even receive money for all his  
18 trouble.

19 He comes back eventually. And interestingly enough, we hear about what he does  
20 when he comes back from 2232. And I don't know what Kool-Aid he drank,  
21 Mr Mokom, when he crossed the Oubangui River, but I only see good things.

22 If you look at P-2232, CAR-OTP-00000901, page 39 to 40. Excuse me, it's at  
23 CAR-OTP-2100-2569.

24 Upon his return, Mokom toured the different bases, as the Prosecutor said, but to do  
25 what? To tell the ComZone, "Don't loot. Remain calm." You find that also at

1 CAR-OTP-0000901, page 1 -- page 8, line 23, to 10, line 9.

2 Immediately when he arrived after his appointment as coordinator of operations,

3 Mokom does a tour of the bases and tell the ComZone not to create disorder, to

4 remain together and to wait patiently for the follow-up.

5 Is that the action of somebody with a criminal plan?

6 What does he do next? He creates a military police. There is no state, no police to

7 speak of, no gendarme, no army. And you have all these fake Anti-Balaka. What

8 does Mokom do? We will create a military police with -- to deal with that problem.

9 You cannot just -- he created a military police, for what? To address the immediate

10 problems that having starved people, thousands of them -- that's another thing.

11 How many Anti-Balaka? Your guess is as good as mine. How many people was he

12 coordinating in committing crimes? We have no idea. People are exaggerating

13 the figures when they deal with DDR or diminishing them for other purposes.

14 There's no way of knowing this mass, this unknown mass, so we have on the first part

15 an unknown number of people of which a large part or a minority are creating crimes.

16 Confirm this, please.

17 What's what Mokom does when he returns and he's appointed as coordinator of

18 operations.

19 And then let's speak about -- okay, one last about this coordination business.

20 P-889, CAR-OTP-0000942, page 17 -- page 79, line 17, to 80, line 4 -- to 80, line 4.

21 The Anti-Balaka -- he is asked about the structure and the coordination of

22 the Anti-Balaka. He said the Anti-Balaka did not have a structure. Even after

23 Mokom returned, the Anti-Balaka are not structured.

24 These organigrams that you're showing me are not worth the paper on which they are

25 written.



1 And if you -- I tried, but I got schizophrenic trying to make a chronology and I  
2 also -- and I apologise for the members of my team, they can recognise themselves I  
3 tried. I want this, I want a chronology of who's who in this court. They change.  
4 You don't know -- you don't know if the documents are true or fake. You don't  
5 know whether these people were doing what exactly. They change every other day.  
6 I gave up. But anyway, thank God to that witness. Anyway, they are not worth  
7 the paper where they are written.

8 One of the things that Mokom did also, let's give him credit, and that's by again,  
9 strangely enough, after drinking his Kool-Aid, Witness 2232, at CAR-OTP-00000901,  
10 page 36, line 14 to 24. After they attempted to arrest Ngaïssona, after it was  
11 attempted to arrest Ngaïssona in February 2014, the Anti-Balaka were frustrated and  
12 wanted to go down on the street. It's Mokom who convinced them not to do it.  
13 Stay calm. And they remain in their bases and there was no trouble in Bangui, at  
14 least that day.

15 So you have a first wave of locusts arriving. You have a second wave of locusts  
16 taking the shape of the transition authorities.

17 What do people say about the transition authorities?

18 P-876, CAR-OTP-2046-0530, page 20-21, some people, some people had a vested  
19 interest in making sure that this carried on. Who wants elections? And each time  
20 there were troubles, the president would give them money to calm them.

21 P-808 relays the same information. CAR-OTP-00001108, page 21, line 16 to 25.

22 The ComZones were often blamed for deeds committed by local non-Anti-Balaka. It  
23 was also a strategy of the political authorities then to make such accusations to ensure  
24 that the transition becomes eternal or perpetual, to perpetuate the transition.

25 P-876 offers an interesting insight into the government back then. He says at this

1 time in Bangui, so we know that there are many fractions of the Anti-Balaka, but also  
2 there were four different governments. There was one, the official government of  
3 Nzapayeke; two, the government bis at the presidency composed just of advisers and  
4 *chargé de mission*, these *chargé de mission* and the ministers; three, the government in  
5 the office of the prime minister; and four, a government at the *Conseil National de*  
6 *Transition à l'Assemblée Nationale*. That's at CAR-OTP-00000921, page 22, line 12 to  
7 23.

8 They were all competing for money. Security is a lucrative business. Maintaining  
9 the Anti-Balaka in activity was a business. That's what P-808 says at  
10 CAR-OTP-00001103, where he alleges against Ngaïssona that he was giving them  
11 money to have their leadership.

12 And here there is no limit to the cynical manipulation that took place on the back of  
13 the Anti-Balaka. And here I invite you to read the evidence of P-876 at  
14 CAR-OTP-00000921, page 24 to 28, and particularly page 25, line 5 to 18 and page 26,  
15 line 10 to 27, line 6.

16 There the witness says that a certain Alfred Legrand Ngaya were responsible for  
17 finding child soldiers. It was a scam. The RCA at the time, with the blessing of  
18 the government and the UNICEF involved, probably not willingly, there's a child  
19 soldier scam, fake child soldiers. Fake child soldiers.

20 Were these child soldiers part of those that supported the initial indictment against  
21 Mokom, or different ones? We don't know. Apparently it's not material.

22 Fake child soldiers.

23 What does Mokom do? He goes to Brazzaville to negotiate a ceasefire with  
24 the Seleka representatives, with all the brass of the Anti-Balaka, in July. That's again  
25 part, I guess, of some criminal plan. Maybe the Prosecutor can explain.

1 Incidents - just a small example again, if we need more - incidents after 5 December.  
2 Boda, apparently Boda was a trouble spot.  
3 P-889 at CAR-OTP-2122-7992, about the attacks of Boda, he heard about them, but  
4 these Anti-Balaka in Boda, no one could control them, not Mokom, not Ngaïssona.  
5 No one could control an Anti-Balaka of Boda. That's at line 40 to 48,  
6 page 889 -- sorry, Witness P-889. CAR-OTP-2122-8002. No one controls  
7 the Anti-Balaka of Boda. Not Mokom, not Ngaïssona.  
8 And he also says, he speaks about Ngaïssona and he says that Ngaïssona, when he  
9 saw the popularity of the Anti-Balaka, he jumped on them to try to get votes.  
10 Ngaïssona eventually created a political party - you saw that, it's in  
11 the evidence - after Brazzaville, around September, October. What did Mokom do  
12 when Ngaïssona created a political party? He split. He leaves. He wants nothing  
13 to do with politics. And you have that at P-966. Mokom and many Anti-Balaka  
14 won't accept to join to play those political games. He'd rather split. And that's at  
15 P-966, CAR-OTP-2031-0241.  
16 In the same extract, it's at paragraph 100 to 104, they talk about Nairobi. Mokom  
17 goes to participate in peace talks in Nairobi towards the end of the year 2014.  
18 Mokom wants to go to Nairobi, but not Ngaïssona.  
19 P-889 at CAR-OTP-2122-7740 says this: The French again, the French ambassador  
20 told Ngaïssona that he would have problem if he dare participate in peace talks.  
21 Stay in Bangui if you don't want problems.  
22 Mokom went anyhow.  
23 What are the French doing at every turn of this case?  
24 (Redacted)  
25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Your Honours, at the beginning of the hearing the substitute for the Prosecutor said  
7 that the evidence is not tested, the evidence that is before you is not tested.

8 It is tested. It is tested in the trial of Yekatom and Ngaïssona. It has been tested  
9 and shown to be unreliable.

10 What a careful reading of these transcripts of these witnesses that gave statement  
11 reveal is that these finally tuned statements that the Prosecutor has obtained in closed  
12 offices in Bangui, containing languages and words that the witnesses could not  
13 pronounce or understand themselves are utterly different from the evidence that  
14 these witnesses offer when they came and they confront the people they are accusing  
15 and are facing judges. They just don't repeat it. The vast majority of the evidence  
16 we rely on is from those transcripts.

17 And I base these submissions on eight insider witnesses, you have their list. If you  
18 put some green on their names everywhere in the DCC, you may have that  
19 newspaper article remaining which was denied by the author.

20 So our submissions are that there is no evidence that support the involvement of  
21 Mr Mokom in any of the crimes for which the Prosecutor wants him to face a trial and  
22 you should release him now, as fast as possible.

23 He's, as you know, he's unjustly detained, for the reasons that you know. He should  
24 already be out. He should be out permanently. And this is the thing to do. And I  
25 thank you for your attention.

1 Tomorrow my colleague, Kate Gibson, will continue.

2 PRESIDING JUDGE AITALA: [16:00:30] Thank you very much, Maître Larochelle.

3 Now, we then -- I will then adjourn the hearing. We will resume tomorrow at 9.30,

4 not before having thanked the parties, the participants, the interpreters, the court

5 reporters, technicians, security officers and representatives of the Registry.

6 Yes, sir.

7 MR LAROCHELLE: [16:00:54] If you allow me, I would like to thank and apologise

8 to the interpreters, also and the court reporters. I know I made their lives difficult

9 today, and I apologise for that, and I thank them for their dedication and very

10 professional work.

11 Thank you for that.

12 PRESIDING JUDGE AITALA: [16:01:12] Okay. Then I thank everyone on behalf of

13 the Chamber and the hearing is adjourned and we will resume tomorrow morning at

14 9.30.

15 Thank you very much.

16 THE COURT USHER: [16:01:19] All rise.

17 (The hearing ends in open session at 4.01 p.m.)