

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 Tuesday, 22 August 2023
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:47] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE AITALA: [9:33:06] Good morning, everyone.
15 Mr Court Officer, kindly call the case, please.
16 THE COURT OFFICER: [9:33:15] Good morning, Mr President. Good
17 morning, 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: [9:33:37] Thank you very much.
23 Good morning, again. I welcome everyone. Parties. The suspect,
24 Mr Mokom. Good morning. Participants, the audience here and connected
25 remotely.

1 Now, I would like to ask the -- request parties and participants to introduce
2 themselves.

3 Mr Prosecutor, please.

4 MR NIANG: [9:34:04](Interpretation) Thank you, Mr President. Thank you,
5 your Honours.

6 The Office of the Prosecutor is represented today by myself Mame Niang,
7 Deputy Prosecutor. And with me, senior trial lawyer Leonie von Braun,
8 Madam Colleen Gilg. And behind me, our case manager Madam
9 Neera Mandavia and trial lawyer Marie-Jeanne Sardachti, Matteo Costi,
10 Sandra Schoeters and Mr Lucio Garcia.

11 I avail myself of this opportunity to say good morning to the Defence and
12 the Legal Representative of Victims and I am happy to see faces that I am
13 familiar with. Thank you.

14 PRESIDING JUDGE AITALA: [9:34:56](Interpretation) Thank you very much,
15 sir.

16 (Speaks English) Mr Larochelle, will you please introduce yourself and your
17 team.

18 MR LAROCHELLE: [9:35:03](Interpretation) Good morning, Mr President.
19 Good morning, your Honours. My name is Philippe Larochelle of the Quebec
20 Bar in Montreal. Today, I'm here with Mr Mokom, who is behind us. And
21 with me on the Defence bench, to my right Kate Gibson, Haneen Ghali, sorry, if
22 I mispronounce her name. Julien Maton, Camille Divet and Cecile Lecolle.
23 We are here on behalf of Mr Mokom. And I take advantage of this
24 opportunity to greet the Chamber and also my colleagues of
25 the Office of the Prosecutor.

1 Thank you, Mr President.

2 PRESIDING JUDGE AITALA: [9:35:42] Thank you very much.

3 The Legal Representative of Victims will kindly introduce yourself.

4 Good morning, Madam.

5 MS RABESANDRATANA: [9:35:49](Interpretation) Good morning,

6 Mr President. Good morning, your Honours. I -- we represent the team of

7 common representatives of victims, made up of Madam Marie-Edith Lawson

8 Douzima, Dangabo Moussa. And we have our legal assistant, who is

9 Evelyne Ombeni.

10 And I would also like to greet the Prosecutor and his team as well. Thank

11 you.

12 PRESIDING JUDGE AITALA: [9:36:27] Good morning, Madam. Thank you

13 very much.

14 So, now the hearing is open. This is a hearing for the confirmation of charges

15 in the case of Mr Mokom.

16 At this stage of the pretrial proceedings, the Prosecution is alleging that

17 Mr Mokom is responsible for certain crimes that the court officer will read later.

18 The Chamber will not decide on the guilt or the innocence of Mr Mokom at this

19 hearing, rather, pursuant to Article 61(7) of the Statute, of the Rome Statute,

20 the duty of the Chamber is determining whether there exists sufficient

21 evidence to establish substantial grounds to believe that Mr Mokom has

22 committed the crimes with which he has been charged. If some or all of

23 the charges are confirmed, the Trial Chamber will subsequently decide on

24 the guilt or innocence of Mr Mokom at a later stage.

25 I have forgotten to introduce the Chamber, which is composed by Judge Akane

1 on my right, Judge Ugalde on my left, and myself, Judge Aitala,
2 Presiding Judge.

3 The following general principles which apply to the hearing are, in accordance
4 with Article 66 of the Rome Statute, the suspect shall be presumed innocent
5 until proved guilty before the Court.

6 Second, the burden of proof rests with the Prosecution, which as a consequence
7 will have to provide sufficient evidence in order to prove the charges brought
8 against Mr Mokom to the relevant standard that I mentioned before provided
9 in Article 61(7) of the Statute.

10 Third, the Defence will enjoy all rights enshrined in Article 61(6) and 67 of the
11 Statute.

12 I will recall - and this is especially for the public - that while the general rule is
13 that the hearing is public and therefore is held, as now, in open session, it
14 might occur that, with a view to protecting certain private or confidential
15 information, particularly regarding victims and witnesses, parts of the hearing
16 will be held in private session upon decision of the Chamber.

17 Pursuant to the order set in the schedule and directions for a confirmation of
18 charges hearing - it's filing 244 of 14 July 2023, for the records - we have set
19 aside 20 minutes for further discussions in relation to observations under
20 Rule 122(3) of the Rules of Procedure and Evidence, if necessary. The parties
21 and participants will have then 20 minutes each for opening statements and
22 30 minutes each for final statements.

23 The Prosecution is being granted two hours to present its arguments on
24 the merits, while the Defence is being granted four hours to present its
25 arguments on the merits. The common Legal Representative of Victims are

1 granted two hours to present their arguments on the merits.

2 I remind everyone, the parties and participants, that oral submissions must be
3 concise and repetitions of any arguments set out previously avoided. This is
4 true especially for the Prosecution, which has already had the opportunity in
5 writing to present submissions.

6 Final statements may not be used to raise new arguments, but only to respond
7 to arguments and questions raised during the hearing.

8 I draw the attention of everyone to the need to, of course, ensure that your
9 microphone is turned on when you're speaking and to speak slowly, and pause
10 for about five seconds before answering any questions and after each sentence,
11 in order to allow the best possible live interpretation and transcription of
12 the hearing by our excellent specialised personnel. The parties and
13 participants shall never interrupt each other and will request
14 the Presiding Judge to be heard.

15 The parties and participants shall clearly indicate whether their submissions
16 can be presented in public session, or whether it is necessary - or they believe
17 that it is necessary - to move into private session. And whenever parties and
18 participants refer to evidence, they must indicate its level of confidentiality and
19 specify whether it can be referred to in public session or it needs to be referred
20 to in private session.

21 The parties and participants shall clearly indicate when it is no longer
22 necessary to remain in private session, and when in public session parties and
23 participants shall refrain from mentioning the names of victims and witnesses
24 and refer to their codes or pseudonyms.

25 At the conclusion of the confirmation of charges hearing, the parties and

1 participants shall provide a list with the items of evidence they have referred to
2 during the submissions to the Chamber by way of email.

3 Now, I turn to the reading of the charges.

4 Rule 122(1) of the Rules of Procedure and Evidence provides that
5 the court officer shall read out the charges as presented by the Prosecution in
6 an abridged version of the longer Document Containing the Charges. The full
7 version of the Document Containing the Charges is publicly available.

8 I recall, for the public, that the Document Containing the Charges only brings
9 the allegations of the Prosecution, so what will be read now is not what has
10 been decided or what it is, but it's what the Prosecution is alleging.

11 The Chamber has the duty to assess whether the evidence presented by
12 the Prosecution is sufficient to confirm any of the charges.

13 Now, Mr Court Officer, I will kindly ask you to read out the document.

14 Thank you very much.

15 THE COURT OFFICER: [9:44:29] The Prosecutor brings 20 charges against
16 Mr Maxime Jeoffroy Eli Mokom Gawaka relating to crimes against humanity
17 and war crimes committed by the Anti-Balaka during and in the aftermath of
18 attacks on two locations in the Central African Republic.

19 Charges 1 to 8 concern crimes committed in Bangui, the capital city of
20 the Central African Republic, from at least 5 December 2013 until at least
21 the end of April 2014.

22 Charges 9 to 20 concern crimes committed in the city of Bossangoa, in
23 the Ouham prefecture of the Central African Republic, from at least
24 5 December 2013 until at least the end of April 2014.

25 The crimes charged which were committed in Bangui from at least

1 5 December 2013 until at least the end of April 2014 are the following:

2 Count 1 - directing attacks against the civilian population as a war crime,
3 punishable under Article 8(2)(e)(i), insofar as during the 5 December attack on
4 Bangui and/or in its aftermath, the Anti-Balaka intentionally directed acts of
5 violence against the Muslim civilian population or individual civilians not
6 taking part in the hostilities.

7 Count 2 - attacks against buildings dedicated to religion as a war crime,
8 punishable under Article 8(2)(e)(iv), and

9 Count 3 - destruction of the adversary's property as a war crime, punishable
10 under Article 8(2)(e)(xii), insofar as during the 5 December attack on Bangui
11 and in its aftermath, the Anti-Balaka intentionally dismantled and destroyed
12 numerous mosques, including the mosques in Boeing, Gobongo, Fouh, Petevo,
13 Kouanga, PK12, Miskine and Malimaka, which did not constitute a legitimate
14 military target. And insofar as the Anti-Balaka also intentionally destroyed or
15 damaged houses in predominantly Muslim neighbourhoods such as Fouh,
16 Miskine, Combattant, Kina, Sara, PK5, Kokoro, Bouca, PK12 and PK13.

17 Count 4 - pillaging as a war crime, punishable under Article 8(2)(e)(v), insofar
18 as during the 5 December attack on Bangui and in its aftermath,
19 the Anti-Balaka pillaged Muslim houses and shops, including roofs, doors and
20 windows.

21 Count 5 - deportation and forcible transfer as a crime against humanity,
22 punishable under Article 7(1)(d) and

23 Count 6 - displacement of the civilian population as a war crime, punishable
24 under Article 8(2)(e)(viii), insofar as during the 5 December attack and in its
25 aftermath, without grounds permitted under international law, the Anti-Balaka

1 forced thousands of Muslim civilians of all ages to leave their homes and
2 communities by expulsion or other coercive acts by the end of April 2014.

3 Count 7 - severe deprivation of physical liberty as a crime against humanity,
4 punishable under Article 7(1)(e), insofar as the Anti-Balaka in Bangui
5 prevented Muslim civilians of all ages from leaving the Bangui enclave in
6 the PK5 neighbourhood, where the civilians were sheltering, during and in
7 the aftermath of the 5 December attack, enduring a lack of adequate food,
8 shelter and health care.

9 Count 8 - persecution as a crime against humanity, on political, ethnic,
10 religious, and national grounds, concerning the Muslim population in Bangui
11 and based on the facts underlying counts 1 to 7, punishable under
12 Article 7(1)(h).

13 The crimes which were committed in Bossangoa from at least 5 December 2013
14 until at least the end of April 2014 are the following:

15 Count 9 - directing attacks against the civilian population as a war crime,
16 punishable under Article 8(2)(e)(i) insofar as, the Anti-Balaka intentionally
17 directed acts of violence against the Muslim civilian population or individual
18 civilians not taking part in the hostilities in Bossangoa during and in
19 the aftermath of the 5 December attack.

20 Count 10 - murder as a crime against humanity, punishable under
21 Article 7(1)(a) and

22 Count 11 - murder as a war crime, punishable under Article 8(2)(c)(i), insofar as
23 in the course of the attack in Bossangoa, the Anti-Balaka killed at least 18
24 Muslim civilians, who were taking no active part in the hostilities.

25 Count 12 - rape as a crime against humanity, punishable under Article 7(1)(g)

1 and

2 Count 13 - rape as a war crime, punishable under Article 8(2)(e)(vi), insofar as
3 in the course of the attack on Bossangoa on 5 December 2013 Anti-Balaka
4 elements raped at least two Muslim women.

5 Count 14 - attacks against buildings dedicated to religion as a war crime,
6 punishable under Article 8(2)(e)(iv) and

7 Count 15 - destruction of the adversary's property as a war crime, punishable
8 under Article 8(2)(e)(xii), insofar as during the attack on Bossangoa and/or in
9 its aftermath, the Anti-Balaka intentionally dismantled and destroyed several
10 mosques, including the central mosque of Bossangoa, which did not constitute
11 a legitimate military target; and insofar as the Anti-Balaka also intentionally
12 destroyed or damaged hundreds of the houses in neighbourhoods such as Boro,
13 Arabe, and Fulbe, that were regarded as predominantly Muslim in character.

14 Count 16 - pillaging as a war crime, punishable under Article 8(2)(e)(v), insofar
15 as during the attack and in its aftermath, the Anti-Balaka pillaged Muslim
16 houses and shops, including roofs, doors and windows.

17 Count 17 - deportation and forcible transfer as a crime against humanity,
18 punishable under Article 7(1)(d) and

19 Count 18 - displacement of the civilian population as a war crime, punishable
20 under Article 8(2)(e)(viii), insofar as without grounds permitted under
21 international law, the Anti-Balaka forced thousands of Muslim civilians of all
22 ages to leave their homes and communities by expulsion or other coercive acts.

23 Count 19 - severe deprivation of physical liberty as a crime against humanity,
24 punishable under Article 7(1)(e), insofar as the Anti-Balaka prevented, by
25 threat of death, over 7,000 Muslim civilians mainly from the neighbourhood of

1 Boro from leaving the compound of the *École de la Liberté*, where they were
2 sheltering.

3 Count 20 - persecution as a crime against humanity, on political, ethnic,
4 religious, and national grounds, concerning the Muslim population in
5 Bossangoa and based on the facts underlying counts 9-20, punishable under
6 Article 7(1)(h).

7 Mr Mokom is criminally responsible for the charges crimes by:

8 (i) aiding, abetting or otherwise assisting in the commission of these charged
9 crimes by the Anti-Balaka, aware that these types of crimes would occur in
10 the ordinary course of events, and while acting with the purpose of facilitating
11 their commission, pursuant to 25(3)(c); and/or

12 (ii) contributing to the commission of the charged crimes by the Anti-Balaka
13 acting with a common purpose, with the aim of furthering the group's criminal
14 activities and/or purpose, aware of its intention to commit such crimes,
15 pursuant to Article 25(3)(d)(i) and (ii) of the Statute.

16 Mr Mokom contributed to the charged crimes committed by the Anti-Balaka in
17 Bossangoa and Bangui by:

18 First, participating in planning the implementation of the common purpose
19 after the 24 March 2013 *coup d'état*;

20 Second, participating in the formation, structuring, development, and
21 organisation of the Anti-Balaka - including the incorporation of pre-existing
22 and new self-defence groups - from at least June 2013 until at least April 2014;

23 Third, coordinating the deployment and military operations of the Anti-Balaka
24 from at least September 2013 until at least the end of April 2014, including
25 the 5 December 2013 attacks on Bangui and Bossangoa;

1 Fourth, providing the Anti-Balaka with logistical support for military
2 operations from at least September 2013 until at least the end of April 2014,
3 including by providing funds, weapons, medication, and ammunition;
4 Fifth, supporting, promoting and endorsing the crimes of the Anti-Balaka
5 against the Muslim civilian population, from at least September 2013 until at
6 least the end of April 2014.

7 At the time of his contributions, Mr Mokom knew that the charged crimes
8 would occur in the ordinary course of events, and of the intention of
9 the Anti-Balaka to commit such crimes. Furthermore, in making
10 the contributions described above, Mr Mokom acted with the purpose of
11 facilitating the commission of crimes such as the charged crimes and the aim of
12 furthering the criminal activities or purpose of the Anti-Balaka.

13 Thank you, Mr President.

14 PRESIDING JUDGE AITALA: [9:57:41] Thank you very much,
15 Mr Court Officer.

16 Now, the parties have not submitted written observations according to
17 Rule 122(3) of the Rules of Procedure and Evidence, which refers to issues
18 related to the proper conduct of the proceedings prior to this hearing.

19 Can you confirm you don't have any, or Mr Larochelle, you have any?

20 MR LAROCHELLE: [9:58:12] Your Honour, we have not -- with your leave,
21 we have not provided any written submissions, but we would like to take
22 a few minutes of this 20 minutes that is allocated for procedural issues to
23 discuss some topics which we think should be brought to the attention of
24 the Chamber.

25 PRESIDING JUDGE AITALA: [9:58:29] You are allowed to do it. Please,

1 proceed.

2 MR LAROCHELLE: [9:58:35] And I guess you will not be surprised to hear
3 that what I want to talk about is the exculpatory evidence in this case.
4 As your Honours are well aware, we filed last Friday two tables containing, for
5 the first one, 275 pages and for the second one, annex B, 201 pages. And these
6 pages are filled with exculpatory evidence that was identified by
7 the Prosecutor itself following an order from your Honours. This exculpatory
8 evidence we receive in mid-June, two months ago. Whereas it's a well-known
9 principle, an established principle that the Prosecutors before this Court but
10 before other international tribunals, who are handling massive amounts of
11 material are supposed (a), to know their case before they go to trial, here to go
12 to confirmation hearing, and (b), to investigate both *à charge* and *à décharge*.
13 We don't take lightly that when Maxime Mokom was arrested in March of 2022,
14 some of the exculpatory evidence that we receive in June date from before his
15 arrest, from 15 -- '21, for example. And what we want to point out to
16 the Pre-Trial Chamber is that after receiving these hundreds of exculpatory
17 evidence extracts, which concern, your Honours, every aspect of the case, every
18 aspect of the OTP theory: Who committed the crimes? Who ordered them?
19 What were the targets? You can see in these tables all these topics are
20 identifying mosques with weapons in them. In total, we have received 350
21 indications in the case file of exculpatory evidence and these indications refer
22 sometimes to a transcript of 90 pages where you find 15, 20 or 10 different
23 extracts which are deemed exculpatory. 350 new indication in two weeks.
24 Assuming the Prosecutor worked full-time, that's 25 per day. If a person was
25 working eight hours per day for 14 days, that would be three per hour.

1 And on 14 June, after the last transmission of exculpatory evidence, silence,
2 nothing. Did they stop doing it? I can confirm to you, and you will see over
3 the course of my submissions, that the case file is replete with more
4 exculpatory material, replete. You will see also in our tables that there are
5 errors, that we are pointed at extracts or material which mean nothing, which
6 have no exculpatory value at all. We don't blame the Prosecutor, we
7 understand that this had to be done in a very short time. We appreciate that.
8 What is the problem? And this is what I want to bring your attention to.
9 Why can't the Prosecutor identify in a case file that he's managing,
10 investigating for the last nine years, why isn't he able to identify what suggests
11 the innocence of the accused? Because what is exculpatory material? It's that.
12 Evidence that contradicts your theory. Evidence that contradicts your thesis.
13 Evidence indicating that maybe the crimes were not committed exactly as we
14 suggest, or maybe by other persons.
15 Why can't he do that? I can suggest an answer, but I don't know, I am not in
16 the mind of the Prosecutor. I can only -- I'm on the receiving end, like you, of
17 that process.
18 What is exculpatory evidence? I just said, evidence that suggests
19 the innocence of the accused.
20 What do you need to be able to identify that, to identify evidence that suggests
21 the innocence of the accused? You need to have a clear theory. You need to
22 know what suggests his guilt. If you don't know what suggests the guilt of
23 the accused, how will you be able to find what suggests his innocence? And
24 we suggest that this is an indication, this failure - because it is a failure
25 of the Prosecutor, to give that material when Mokom was arrested instead of

1 two months before he's asking to confirm charges, severe charges against him
2 directly - stems directly, that problem stems directly from their incapacity to
3 properly identify incriminating material, as we will demonstrate later this
4 week.

5 Beyond this problem of exculpatory evidence, there are other areas which we
6 had a very short time to request disclosure. Your Honours are aware, we
7 made some disclosure requests. We obtained some material. But we are still,
8 still not *appétit* - sorry for the translator - but we remain on our appetite,
9 because we know there is more.

10 For example, the arrest warrant of Mr Mokom talks about child soldiers: Where
11 are they gone? Did they turn 18? What happened to them? Was that
12 fabricated evidence? Who did that? For what purpose? Why did that
13 disappear from our case? Are some of the current witnesses of
14 the Prosecution involved in some sort of scheme? We don't know. It's not
15 material because we're not charged with that anymore, but we would like to
16 know because it may have an impact on rest of the evidence.

17 If I may be allowed, your Honour, a brief closed session because I'm not -- I
18 want to play on -- be on the safe side. It's going to take two minutes and then
19 I'll finish.

20 PRESIDING JUDGE AITALA: [10:05:53] Mr Court Officer, let's go into
21 private session, please.

22 (Private session at 10.06 a.m.)

23 THE COURT OFFICER: [10:06:11] We're in private session, Mr President.

24 (Redacted)

25 (Redacted)

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11 (Open session at 10.08 a.m.)

12 THE COURT OFFICER: [10:08:41] We are back in open session, Mr President.

13 PRESIDING JUDGE AITALA: [10:08:43] Mr Larochelle, please conclude.

14 MR LAROCHELLE: [10:08:47] Thank you. Just concluding.

15 Why is the Prosecutor not forthcoming? Why can't the Prosecutor identify

16 exculpatory evidence? If this was a case with 10 statements and a very

17 specified and localised allegation, it would not matter much, we would be able

18 to do it ourselves, to find the evidence that is exculpatory and to use it

19 ourselves. But this a case comprising hundreds of thousands of pages, this is

20 a case encompassing the whole of the Central African

21 Republic - I'm sorry - and the Prosecutor is supposed to do that. For you, for

22 us, for truth. This is a truth-seeking exercise, as far as I know. And because

23 of those failures, we are running away from it rather than approaching it.

24 And I want you to be aware of that and to read the lines in these tables, which

25 again I will not be able to refer to them all but they do undermine every aspect

1 of the Prosecutor's theory.

2 I thank you for your attention.

3 PRESIDING JUDGE AITALA: [10:09:52] Thank you very much, Mr Counsel.

4 Mr Prosecutor, the floor is yours, 10 minutes.

5 MR NIANG: [10:09:59](Interpretation) Thank you very much, Mr President,
6 your Honours.

7 I will ask Madam Leonie to answer some of the questions raised. But before
8 doing so I would like to point out to you that I do not believe that the time
9 allotted for this exercise has been used properly. This was not
10 the opportunity for pleadings by anticipation. This particular slot wasn't set
11 aside for anyone to point out whether the Prosecutor's case has been made
12 clearly or whether the Document Containing the Charges corresponds to
13 the charges defined therein and in the arrest warrant.

14 I think this space, today's hearing was organised by you to address some
15 specific issues relating to disclosure and such matters that may be practical
16 which need to be addressed. Were they properly addressed? Were your
17 orders obeyed or not? And I think this is the purpose for which this particular
18 slot was set aside. What we have heard instead is a critique of the Rules and
19 this has already been provided for at another time. There's a space for that to
20 be done. And so this specific period was set aside for something else, not for
21 submission of specific arguments.

22 Now, Madam Leonie would now add to what I have just said. Thank you
23 very much, Mr President.

24 PRESIDING JUDGE AITALA: [10:11:55] Mr Prosecutor, we will rule on
25 the submissions of the Defence and your response in due course, but you will

1 have plenty of time to go into the merits later in the hearing. For now I would
2 encourage then your colleague to focus on -- on this specific matter now and
3 this is -- you will have time to do -- to do this later on.

4 Please, Madam Prosecutor, proceed.

5 MS VON BRAUN: [10:12:24] Thank you, your Honour. And good morning.
6 I will be very brief in addressing the points raised by the Defence just now.
7 Contrary to what was said by Maître Larochelle, the Defence had received
8 the majority of the information from which the Prosecution then analysed
9 whether there is exculpatory information in there or not way ahead of June.
10 And, your Honours, I'm not going to go into details, because there's been
11 plenty of submissions on these issues, but whether by disclosure or migration
12 the information relevant to the case file of Mr Mokom was put at the Defence's
13 disposal.

14 The analysis of importance for exculpatory evidence was then provided two
15 months before this hearing, and the fact that the Defence was able to work with
16 this Prosecution's analysis, take it into account, categorise it, assess it, is
17 evidenced by their filing which Maître Larochelle has referenced today already
18 as well, the extensive annexes categorising the information, taking it in.
19 This shows that the Defence was able to review and to process this important
20 information ahead of this hearing. They cannot claim prejudice now in light
21 of that, in my view.

22 One additional point on the Prosecution's case theory. You will hear today
23 again what that theory is. We will make that abundantly clear. It is set out
24 in the DCC, but you will hear it today and the evidence we rely on.

25 On disclosure, all information relevant to Mr Mokom's charges has been put at

1 the disposal of the Defence. There has been no requests also in recent weeks
2 where the Prosecution has not immediately responded, provided what was
3 necessary, only in very limited situations where clearly Rule 77 was not
4 triggered. Otherwise, everything was provided. And this includes on
5 the issues that Maître Larochelle referred to in the closed -- in the private
6 session just now, which I am not going to go into here in detail. There's no
7 reason to complain, they have everything on these issues.

8 And with that I close my submissions. Thank you.

9 PRESIDING JUDGE AITALA: [10:15:25] Thank you very much, also for
10 responding briefly.

11 Mr Larochelle, I can give you two, just two minutes if you want to counter
12 reply, just two minutes.

13 MR LAROCHELLE: [10:15:35] Your Honour, the prejudice is not only to us,
14 it's not only to Mr Mokom, it's to you. You are preparing on the basis of
15 a document, the DCC, which was given to everyone in March. And then, two
16 months later you receive the indication of what evidence undermines that case
17 theory after, where it was supposed to be provided to us, there was an order
18 was supposed to be given all to us in February, not in June. And this is
19 material that they add when you -- I'm not going to go there, but when you
20 follow, when you track this material it goes back months, years sometimes.
21 So the prejudice is not only to us, it's to the truth. It's to rationality, it's to
22 objectivity, this is the victim.

23 And, yes, there is a prejudice, because we have to analyse that, we have to
24 identify the errors, we have to change our preparation. We have to -- oh,
25 there's more. And we find more and you will see that there is still more. So,

1 yes, there a prejudice. The Prosecutor does not know its case and is trying to
2 send Mr Mokom to trial. If that's not a prejudice, I don't know what it is.

3 PRESIDING JUDGE AITALA: [10:17:03] Thank you very much.

4 Mr Prosecutor, I will close it here unless you really have to.

5 MR NIANG: [10:17:09] No.

6 PRESIDING JUDGE AITALA: Okay. Thank you.

7 (Pre-Trial Chamber confers)

8 MS RABESANDRATANA: [10:17:18](Interpretation) Mr President, I would
9 like to take the floor. It's not for a plea, but to inform you of a very serious
10 difficulty that we encounter.

11 Our team was designated as representatives of victims in March, following
12 the decision of your Chamber of 7 August 2023. Our individual letters of
13 appointment were notified to us on 11 August 2023 and from that point on we
14 should have had access to the materials, this was the first thing that should
15 have started.

16 Now, we arrived yesterday, we were told on Friday we will have access, but
17 afterwards we had no access. We went down to that room in the afternoon,
18 we had no access. And to tell you everything, the access to the files -- to the --

19 PRESIDING JUDGE AITALA: [10:18:41] Madam, this is --

20 MS RABESANDRATANA: -- (speaks English) the difficulty.

21 PRESIDING JUDGE AITALA: [10:18:44] Right now we're discussing

22 Rule 122(3) --

23 MS RABESANDRATANA: [10:18:48](Overlapping speakers)

24 PRESIDING JUDGE AITALA: [10:18:50] -- and this is not --

25 MS RABESANDRATANA: [10:18:51](Interpretation) I am coming to that.

1 We are simply saying that we are not fully prepared because we were not
2 aware of the difficulties. And as far as we are concerned, we did not have
3 the access to know the substance of that file.

4 PRESIDING JUDGE AITALA: [10:19:22] Okay. I understand. We will
5 check this. Now let me -- let me --

6 MS RABESANDRATANA: [10:19:25](Interpretation) I simply wanted to
7 share that difficulty with you, no less, no more.

8 PRESIDING JUDGE AITALA: [10:19:32] Thank you. We will look into this.
9 Now, on Rule 122 we will of course rule in due course, pursuant to Rule 122(6).
10 Now we will proceed with the open statements.

11 I recall that back on 16 August the Chamber authorised a request submitted by
12 the Defence by email for Mr Mokom to make an unsworn statement as part of
13 the Defence opening statements.

14 Floor to the Prosecution, then.

15 MS VON BRAUN: [10:20:35] Your Honours, we will need access to evidence
16 2 to broadcast the presentation, if that's possible. Thank you.

17 MR NIANG: [10:21:09](Interpretation) Mr President, your Honours, senior
18 trial lawyer von Braun will present to you the facts and, if necessary,
19 the charges against Maxime Gawaka.

20 In this opening statement I will focus on presenting to you the general context
21 within which the crimes were committed, crimes in which Mr Mokom took
22 part.

23 Had it not been the requirements of the procedure, I would have said that this
24 presentation is superfluous because it is already known, that general context is
25 already known to this jurisdiction and the truth is that it is only because of

1 a late arrest that we have this hearing.

2 Mr Mokom should actually have been tried at the same time with Ngaïssona
3 and Yekatom. There was a single Document Containing the Charges against
4 the three, but because of the gaps in the arrests it was necessary for us to
5 separate the cases, but these facts remain facts relating to blood.

6 Now, there is still the principle of relativity. It supposes that each case that is
7 considered separately should be considered by the judge as if they were seeing
8 the case for the first time. The confirmation of charges also does not decide on
9 guilt and also the evidence may not be contested.

10 This, the judges usually takes into account judicial notices that are already
11 taken before, but this does not undermine the presumption of innocence.

12 The domain of judicial notices is very vast and I call on the judges to explore
13 them. But throughout our presentation, we will present to you our written
14 conclusions and they include substantial grounds to support the criminal
15 activities charged against Mr Mokom.

16 Mr Mokom contributed in the Anti-Balaka attacks against Bangui and
17 Bossangoa, as well as the subsequent attacks. Mr Mokom acted with
18 the requisite knowledge and intent required by the Statute.

19 The crimes charged against Mr Mokom were committed in Bangui, the capital,
20 and in the region of Bossangoa, which is 300 kilometres north of Bangui.

21 The Central African Republic had about 6 million inhabitants. It was
22 multi-ethnic and multireligious. Before the conflict, there were about
23 50 per cent of Christians, 35 per cent Muslims, and the others were practicing
24 traditional religious.

25 François Bozizé was the president of Seleka in 2012 and it was in August of

1 the same year that the Seleka coalition emerged from the northeast of
2 the country. It was an alliance of several armed groups which was mainly
3 made up of Central African Muslims as well as Chadian and Sudanese
4 mercenaries.

5 As from December 2012, the actions of Seleka intensified and they progressed
6 towards Bangui. Bangui fell in March and President Bozizé fled the country.
7 The head of the Seleka, Mr Djotodia, became president.

8 Having taken control of the state, Seleka submitted the non-Muslim civilians
9 for the most part to unspeakable atrocities and these brutalities sowed
10 the seeds of vengeance which motivated the Anti-Balaka.

11 When after the *coup d'état* of 24 March, Bozizé and his associates fled to
12 Cameroon, Mr Mokom fled to Zongo, which is a border town a few kilometres
13 from the Oubangui river.

14 The Anti-Balaka were made up of former members of the presidential guard of
15 Bozizé and the Central African Armed Forces, known as FACA, as well as
16 other existing members. What brought them together was the hatred against
17 Seleka and anyone considered as their associates, including the Muslims.

18 The Anti-Balaka were organised and coordinated by groups located in three
19 main areas: in the Central African Republic, in Cameroon and in the DRC.

20 In the Cameroon group, there was Bozizé and other personalities including
21 Patrice Ngaïssona and Bernard Mokom, the father of Maxime Mokom.

22 The group of the DRC had the supporters of Bozizé who had fled to Zongo
23 after the *coup d'état*, as well as the supporters -- as well as Mr Mokom who
24 became the coordinator of Anti-Balaka operations.

25 From Zongo Mr Mokom supported the Anti-Balaka, and this was as early as

1 mid-2013. He was the one who looked for ammunition, coordinated
2 the deployment of Anti-Balaka in the prefectures and oversaw their attacks.
3 Mr Mokom was in communication with senior figures of the inner circle of
4 Bozizé in Cameroon. He was in regular contact with the zone commanders in
5 Bangui and in the prefectures.
6 In the Central African Republic, the groups operated in Gobere, Bangui and
7 Kalangoi.
8 In September 2013, the Anti-Balaka started implementing their strategy to take
9 over power. Before the major attacks of 5 December attack in Bangui and
10 Bossangoa, within the context of which the crimes have been charged,
11 the Anti-Balaka attacked several towns and villages.
12 The crimes committed during those attacks, you will realise, do not form part
13 of the charges in this case, but we know that it is important to refer to them to
14 prove the fact that the Anti-Balaka were following a *modus operandi* which was
15 already in place. These attacks were carried out in Bossangoa, in Bouar
16 in September 2013 and the Anti-Balaka killed hundreds of Muslim civilians in
17 schools. They burned down hundreds of houses and pillaged their cattle.
18 These attacks led to the enforced displacement of Muslims, many Muslims, to
19 the regional capital of Bossangoa.
20 In October, in Yaloké and Gaga, the Anti-Balaka, after having attacked Seleka,
21 turned to attack the Muslim civilians. Many of them died in their houses and
22 mosques were destroyed.
23 In November 2013, the Anti-Balaka attacked the Peuhl camps in Boali, which is
24 between Bossangoa and Bangui, killing dozens of people.
25 Between the months of October and November 2013 the Anti-Balaka attacks

1 and confrontations with Seleka were reported in other locations such as Bouar,
2 Bossembele, and towards the end of October in Beloko and November of
3 the same year.

4 Other villages were attacked later on.

5 Bohong, for example, on 12 December, where 27 persons, most of them
6 Muslims, were killed by the Anti-Balaka.

7 The crimes committed against the Muslims during the period from September
8 to December were mainly reported by both the local and international press.

9 A report of France 24 of 16 September of 2013 shows a Muslim village which
10 was reduced to ashes.

11 (Viewing of the video excerpt)

12 THE INTERPRETER: [10:32:46](Interpretation of the video excerpt)

13 "Two women come out of the bush and they show us some bodies. At
14 nightfall dozens of villagers were running away, women and children.

15 The soldiers of the peacekeeping force appealed to the inhabitants to go to
16 town. The survivors left terrorised children in the bushes."

17 MR NIANG: [10:33:28](Interpretation) In that report in Bossangoa

18 in September 2013, Al Jazeera gave the floor to a Muslim civilian who fled his
19 village after the Anti-Balaka had killed his father.

20 (Viewing of the video excerpt)

21 (The following inserted excerpt is a transcription prepared and provided by the
22 parties of the aforementioned recording, without any modification or
23 alteration)

24 "In September, SELEKA was attacked by a group called ANTI-BALAKA,
25 which means "anti-machete" in the local language. On the other side of town,

1 Muslims are hiding in a school. They accuse men from ANTI-BALAKA of
2 targeting them. Mahamad IDRIS says they killed his father. He's now
3 looking after his family of 20.

4 [00:01:47. Cut to view of Mahamad IDRIS talking to the camera]

5 MI: <UND> [inaudible, 00:01:48].

6 Reporter: [Voice-over] My message to these people is they may want to retake
7 power, they may want to get back in government, but they need to spare
8 civilian lives."

9 MR NIANG: [10:34:24](Interpretation) In Boali, around 2 December 2013,
10 the Anti-Balaka, armed with machetes, knives and guns, attacked a Peuhl camp.
11 They killed at least 12 persons and wounded several others. Many children
12 were amongst those victims. These victims were transported to the Bangui
13 hospital.

14 (Viewing of the video excerpt)

15 THE INTERPRETER: [10:35:01](Interpretation of the video excerpt)

16 "Our resources are limited. There were people who were struck by machetes
17 on the skull. We don't know what will happen to them."

18 MR NIANG: [10:35:17](Interpretation) In 2011, the population of Bangui was
19 740,000, including 130,000 Muslims in the eight arrondissements of the town.
20 The demographic composition of the town changed radically after
21 the Anti-Balaka attack of 5 December 2013.

22 Mr Mokom contributed to the Anti-Balaka attack against Muslims in -- against
23 Bangui by encouraging and arming the Anti-Balaka from Zongo.

24 On the same day, on 5 December 2013, a few hours later, the Anti-Balaka also
25 attacked Bossangoa.

1 Once more, they targeted Muslim civilians and did not discriminate against
2 these people and the Seleka.

3 The bodies of those who were killed were taken to the Ali Babolo mosque in
4 PK5 and this place became infamous because the civilians went to look for their
5 dead relatives there.

6 You will see an image on the screen dated 5 December 2013 and this is an
7 image of several bodies on the grounds of the mosque.

8 The climate of violence following 5 December compelled Djotodia to resign on
9 10 January 2014 under international pressure. On 20 January, the mayor of
10 Bangui, Catherine Samba-Panza, was elected interim president. In the same
11 month the Anti-Balaka adopted a formal structure and once again Mr Mokom
12 was appointed a coordinator of operations.

13 On 6 February 2014, Mr Mokom crossed the Oubangui river and based himself
14 in Bangui.

15 However, the resignation of Djotodia did not put an end to the Anti-Balaka
16 attacks.

17 The partial disarmament of the Seleka and the retreat of the forces from Bangui,
18 as well as from other parts of the west of the CAR created a vacuum of power
19 and left the Muslim population vulnerable to the vengeance of the Anti-Balaka.
20 So the frequency and scale of the crimes increase.

21 On 22 January 2014, the Anti-Balaka began attacks against the Muslim
22 community of Yaloké. They killed and wounded Muslim civilians and
23 a young girl was raped and killed. They burned and pillaged houses and
24 the Muslim shops. Confined under the threat of the Anti-Balaka,
25 the members of the Muslim community endured deplorable conditions during

1 the year 2014.

2 The Anti-Balaka attacked Bossemptele during that same period. Once more
3 they killed several Muslim civilians. They pillaged and burned several houses
4 belonging to Muslims, as well as their shops and mosques.

5 Muslim civilians fled en masse and took refuge in the Catholic mission of
6 the town. In July 2014 or later, almost the entire population, Muslim
7 population of the town had been evacuated.

8 PRESIDING JUDGE AITALA: [10:39:29] One and a half minutes left.

9 MR NIANG: [10:39:31] Yes, and I will -- that will suffice, your Honour.

10 (Interpretation) This is an excerpt of a video which shows Muslims enclaved in
11 Boda in April 2014, as well as an Anti-Balaka chief in Boda talking about
12 the surrounding of the enclaved Muslims.

13 (Viewing of the video excerpt)

14 (The following inserted excerpt is a transcription prepared and provided by the
15 parties of the aforementioned recording, without any modification or
16 alteration)

17 "Journalist: Life under siege in CENTRAL AFRICAN REPUBLIC, Muslim
18 children in this war-torn country are going hungry.

19 [00:00:11. Cut to view of several people walking. Another view shows women
20 vending in front of a building, under which are sat some men. Also the view of
21 a street and a wall-fenced structure, with the words: BADICA, BUREAU
22 D'ACHAT DIAMANT OR. About a dozen children are seen in front of the
23 gate]

24 Journalist: Bloodshed and repeated attacks have left all Muslims hurdling in 1
25 district of a former diamond town. They are learning to live without.

1 [00:00:19. Cut to view of a man giving an interview. In the background are
2 several people walking, trading and others seated leisurely]

3 US 1: Bon, d'abord pour avoir les produits, c'est cher ...

4 Reporter: [Voice-over] Everything is blocked, nothing comes in. It's very
5 expensive to buy food. Our life is at a critical stage, it means like we live in a
6 prison, we don't have freedom, it's not freedom or it's a freedom under
7 surveillance. We don't understand it.

8 US 1: Je ne comprends pas.

9 [00:00:37. Cut to view of several ruined buildings, one of which has the words
10 "Coiffure" written on the wall. In another angle, a man walks past one of the
11 destroyed structure as a white pick-up truck with the words "IOM" on the front
12 door, drives by]

13 Journalist: They are encircled by the ANTI-BALAKA, a Christian militia that
14 vows to kill Muslims that step outside the perimeter.

15 [00:00:45. Cut to view of a man talking to a journalist. Two men are standing on
16 the background]

17 US 2: On va rester là même pendant 10 ans. [Inaudible, 00:00:46].

18 Reporter: [Voice-over] We can wait for 10 years for them to leave. We cannot
19 accept living together with Muslims long-term."

20 MR NIANG: [10:40:43](Interpretation) Around February 2014, Mr Mokom
21 addressed himself to the Anti-Balaka zone commanders and he explained to
22 them that the battles will end only after power had been taken over and Bozizé
23 had returned to Bangui.

24 So it is at this point, Mr President, your Honours, that I conclude my opening
25 statement, and I thank you very much for your kind attention.

1 PRESIDING JUDGE AITALA: [10:41:22] Thank you very much,
2 Mr Prosecutor, for your opening statements.

3 Now I give the floor to the Common Legal Representative of Victims for their
4 opening statements. You're allowed 20 minutes.

5 MS DOUZIMA-LAWSON: [10:41:55](Interpretation) Thank you,
6 your Honours. Thank you, your Honours.

7 I rise today on behalf of the Legal Representative of Victims and I would like,
8 first of all, to recall that pursuant to the preamble of the Rome Statute
9 the creation of the International Criminal Court, a permanent and independent
10 court, is the result of findings by State Parties whereby during the 20 century
11 millions of children and women were victims of atrocities that defy human
12 imagination and conscience.

13 They were of the view that such crimes should not go unpunished and that
14 there is need to stop and check them by contributing to the commission of new
15 crimes.

16 This is like dealing with a lie that runs faster than the truth. But at the end of
17 it all, the truth always prevails. What has happened is that crimes continued
18 to run very fast, but as I have said, justice will overcome and, at the end of it all,
19 play is dissuasive role.

20 In any event, let us recall that the International Criminal Court only has
21 a complementary role to play regarding national jurisdictions when they don't
22 have the capability or the will to address crimes that fall under the jurisdiction
23 of the Court and which appear to have been committed on their territory.
24 Such is the case before us whereby the Central African state referred this case
25 to the Court.

1 For at least two decades the Central African Republic has been subjugated to
2 crimes and the perpetrators of which have remained unaccountable, thereby
3 creating a culture of impunity and violence as a method for the settlement of
4 scores and, therefore, making way as well to the propensity for amnesty and
5 paving the way for so-called peace agreements between politicians which take
6 place outside of or regardless of the victims.

7 In 2015, during the transition in the CAR, there was an awakening of
8 consciousness relating to justice during the consultations with the people at the
9 base, which culminated in the national forum, which came up with strong
10 recommendations to banish impunity and to reject amnesty.

11 In short, the people of the Central African Republic call for justice to be meted
12 out against all perpetrators of violence without any distinction.

13 Mr President, your Honours, Maxime Mokom is one of those who took up
14 arms to get to power at any cost while creating terror within the population,
15 the civilian population who do not participate in the activities and also use
16 them as human shields in a view to achieve their ends.

17 In fact, rebellion has become a business in the Central African Republic
18 whereby anything can be done and all claims can be made.

19 When the arrest warrant was issued against Maxime Mokom, the judges of
20 the Pre-Trial Chamber were of the view that there is reasonable grounds to
21 believe that Mr Mokom committed the crimes charged against him.

22 Today, you must come to the determination whether there is sufficient
23 evidence and substantial grounds to believe that Maxime Mokom indeed
24 committed the crimes charged against him and thereby defer him to trial.

25 We recall that in the Document Containing the Charges the Prosecutor accuses

1 Mr Mokom of being the perpetrator on the Central African Republic territory
2 of crimes against humanity and war crimes, including pillaging, persecution,
3 murder, rape, and these are the crimes to which -- which have been extensively
4 described by the victims whom we represent.

5 The Mokom case flows from the recent 2013-2014 conflict between armed
6 groups in the Central African Republic, namely the Seleka coalition and
7 the Anti-Balaka militia.

8 In fact, the Seleka rebels who were mostly Muslims took power by force on
9 24 March 2013 after having committed serious crimes before, during and after
10 24 March 2013 against the population, mostly the civilian population. They
11 wanted to fight and take power back from the overthrown regime and in so
12 doing, around September 2013, they organised groups known as Anti-Balaka.

13 And Balaka, Mr President, means machete in Sango, which is the national
14 language of the Central African Republic.

15 Initially, these were self-defence groups made up of local inhabitants who
16 fought with traditional weapons against highway robbers who were causing
17 havoc across the country with their machetes. And that is how they took on
18 the name Anti-Machete. They were brave, and were recruited by Mokom,
19 and others were recruited to join them in order to fulfil their purpose. There
20 was brainwashing and they were incited to commit atrocities on civilian
21 populations, which are tantamount to war crimes and crimes against humanity
22 as described in the Document Containing the Charges.

23 These elements were armed. They had machetes and firearms.

24 The elements of these groups attacked indiscriminately persons whom they
25 had been brought about to hate and who were deemed to be responsible

1 without any evidence for the crimes committed by Seleka.

2 The Anti-Balaka were organised into subgroups and each subgroup had

3 a commander. Maxime Mokom was officially the operations coordinator, and

4 this implied that there was a structure, an organisation, and funding and

5 provision of weapons in the troops. This was common knowledge.

6 I am not going to go back to Mr Mokom's personal criminal responsibility

7 which have been properly outlined by the Prosecutor in the Document

8 Containing the Charges. Allow me to insist on the harm that Maxime Mokom

9 inflicted on his fellow countrymen, both individually and through his groups

10 which he masterminded.

11 I wanted to point out to the judges, furthermore, that there is another story that

12 should be told, the story of the victims who are at the very heart of this trial.

13 When it comes to the attacks, these attacks were intentionally targeted at

14 civilians, based on various circumstances and on -- and for unjustifiable

15 reasons.

16 Let me take a few examples.

17 Victim a/71100/22 declared that they were attacked, she and her sister, by

18 the Anti-Balaka under the pretext that they allegedly had betrayed them to

19 the Muslims simply because her sister was married to a Muslim.

20 Victim a/70966/22 narrates that she and her father were attacked by

21 the Anti-Balaka, Mokom's Anti-Balaka, because her father was a Muslim and

22 because she was her father's daughter.

23 Victim a/71101/22 declared that in her sector the Anti-Balaka attacked all

24 the men, and that is why he was shot at and abandoned. This is further

25 confirmed -- or this assertion is further confirmed by victim a/71101/22.

1 Victim a/70967/22 affirms that Mokom and his elements attacked them because
2 they suspected that they were guarding the businesses of the Seleka.

3 Maxime Mokom's involvement:

4 Maxime Mokom, in addition to his role organised the attacks by
5 the Anti-Balaka, he monitored the operations and facilitated the activities of
6 the Anti-Balaka leaders. And in addition to that, he himself personally
7 participated in the perpetration of the crimes as described by the victims,
8 particularly rapes.

9 Most of the victims, women, were raped, and the purpose of rape was to
10 punish, to destabilise and to terrorise the enemy.

11 That is how victims a/71100/22, a/70967/22, a/70966/22, a/70970/22, as well as
12 several others, declared that they had been raped by Mr Mokom Maxime
13 before he invited his elements to do the same thing to them.

14 Mokom's elements openly declared their allegiance to him and their *modus*
15 *operandi* were well known. The idea was to take the victims from Bangui to
16 their base in the Yamwara school and torture them and/or kill them.

17 When it comes to Bossangoa, the town of Bossangoa, it was at the *École Liberté*
18 that the victims' situation was completely settled, and it is exactly at that spot
19 that the victims had sought refuge.

20 As for Bangui, a number of victims narrated in their statements that in addition
21 to rape they had been robbed of all their belongings after having been
22 persecuted.

23 Mr President, your Honours, all the charges against the Anti-Balaka have been
24 established and the victims whom I have met before coming here ask you,
25 your Honours, to recognise them as victims. They cannot bear this any

1 further and they rely on the ICC to give them relief because, when you take all
2 the crisis and the conflicts that have unfolded in the Central African Republic,
3 they have not seen any of the perpetrators of these crimes and members of
4 these armed groups being tried. That is why the Special Criminal Court and
5 international organisations have brought some pressure to bear on some
6 perpetrators and even proceeded to try some cases.

7 But when it comes to the ICC, your Honours, your role is to try the main
8 leaders of these armed groups in order to render justice to the victims, who
9 expect that their views and their concerns will be heard.

10 Thank you very much.

11 PRESIDING JUDGE AITALA: [10:58:22] Thank you very much, Madam
12 Common Legal Representative of Victims.

13 Now, before we conclude, Mr Prosecutor, you have not mentioned the ERN
14 numbers of videos you have shown. Are you -- if you're able to do it right
15 away, otherwise the beginning of the next session. Are you able to do it now
16 for the transcripts and the records?

17 MS VON BRAUN: [10:58:46] We have them on the slides, so if it's okay I
18 would have to pull up the presentation one more time to read them. I can do
19 that now or after.

20 PRESIDING JUDGE AITALA: [10:58:57] We'll do this at the beginning of
21 the next session, so you'll be prepared to say the numbers for the record.

22 MS VON BRAUN: [10:59:05] Yes. All right. Thank you.

23 PRESIDING JUDGE AITALA: [10:59:06] Thank you very much.

24 Now, we will then adjourn the hearing for a 30-minute break and we will
25 resume at 11.30.

1 Thank you very much.

2 THE COURT USHER: [10:59:20] All rise.

3 (Recess taken at 10.59 a.m.)

4 (Upon resuming in open session at 11.34 a.m.)

5 THE COURT USHER: [11:34:17] All rise.

6 Please be seated.

7 PRESIDING JUDGE AITALA: [11:34:41] Madam Prosecutor, do you have
8 those numbers for us, please.

9 MS VON BRAUN: [11:34:47] Yes, your Honours.

10 So, the ERNs from the videos that were shown in the opening statement are as
11 follows: For the France 24 *reportage*, it is CAR-OTP-2092-0996; for the
12 Al Jazeera *reportage*, it is CAR-OTP-2107-1169. For the video regarding the
13 victims of Boali, it is CAR-OTP-2108-0681. And for the report regarding Boda,
14 it is CAR-OTP-2066-5312.

15 PRESIDING JUDGE AITALA: [11:35:42] Thank you very much.

16 Before we move to the statements of the Defence, the Chamber wishes to clarify
17 that with reference to the opening statements of the Common Legal
18 Representatives of victims, that the Prosecution in the DCC has not brought
19 any charge of rape allegedly committed by Mr Mokom. This is to be clarified
20 also for the public. There is not such charge in the DCC.

21 Now, we turn to the Defence and we start with the unsworn statement of
22 Mr Mokom.

23 Is that what you asked for?

24 MR LAROCHELLE: [11:36:27] Yes, absolutely, your Honour. But I wanted
25 to thank you for clarifying this because I think it was important to mention it.

1 And with that, Mr Mokom can now start.

2 PRESIDING JUDGE AITALA: [11:36:42] Mr Mokom, the floor is yours.

3 MR MOKOM: [11:36:43](Interpretation) Thank you, your Honours.

4 Mr President, your Honours, please allow me to thank you for having given
5 me the opportunity to address myself to you, as well as for the work that you
6 have done to carry on this process to this point.

7 I would also like to salute all my Central African brothers and sisters. As you
8 have seen in the publicity boards in the country, on 22 August 2023 you have to
9 listen to Radio 24 as well as other radio stations to listen to the reality on the
10 events of -- on the crisis.

11 The Anti-Balaka movement was created following massive violation of the
12 constitutional situation of the CAR, as it happened in Ukraine recently.

13 Then painful occurrences happened, and everybody is aware of it. This was
14 related by international and local media.

15 This established our inability to defend our own rights and to protect our own
16 children, to save the honour of our own spouses or wives, our mothers and
17 sisters, who were raped before our own eyes, and to protect our parents from
18 humiliation. We could no longer bear the pillaging, the burnings, the beatings
19 and everything. No town, no village, no parties were spared by the atrocities
20 perpetrated by the Seleka.

21 We lost our dignity. We lost our honour. We lost our pride and we lost our
22 sovereignty in the face of this armed attack. The political leaders stayed quiet
23 and others disappeared. The soldiers disappeared. Human rights were
24 trampled upon and there was widespread chaos. There was a vacuum in the
25 area of justice. So this was -- the country was transformed from a country of

1 law to a jungle.

2 So the people of the Central African Republic had to organise its own defence
3 in order to ensure its survival in the face of the horrors perpetrated by the
4 Seleka.

5 The state of need created for the Central African people compelled them to
6 engage in acts of personal and collective protection, hence the emergence of
7 this organisation called the Anti-Balaka. Why would not the Central Africans
8 take up arms to fight against aggression, just like France did against Germany
9 during the Second World War?

10 During that entire period, I was not in the country, I was a refugee in the
11 Democratic Republic of Congo. I returned on 15 February 2014 in the country
12 to join the Anti-Balaka movement. I dedicated my return to the search for
13 peace rather than to engage in war. The Anti-Balaka were demonised by
14 certain people because of their political calculations and for the interests of
15 other people.

16 The facts were falsified and politicised. On 24 March 2013, a Sunday, when a
17 group of soldiers or elements, the Seleka coalition, made up of Chadians,
18 Sudanese, Nigeriens invaded the CAR and occupied sub-prefectures,
19 prefectures and others.

20 On 24 March to September 2013, there were 3,000 dead and many people were
21 unable to find the bodies of their relatives. More than 200,000 people became
22 refugees into -- in following -- in neighbouring countries.

23 One million -- 1.5 million were displaced internally.

24 And as if that did not suffice, they started bringing out sick people from
25 hospitals and shooting them. Like in 2013, at the CDR, they started killing

1 people at ENERCA.

2 They started launching shells. And during a worship session there was an
3 attack that everyone saw. They burned down churches and murdered priests
4 and pastors.

5 There is a village of 1,700 people near the road to Mbre which has totally
6 disappeared from the map. The village was known as Zaire. All the
7 administrative buildings were destroyed. All the police posts were taken over
8 by Seleka mercenaries.

9 And in the face of this, the sons and daughters of the country rose as a single
10 person to launch the Anti-Balaka movement in September 2013. Some of
11 them died and some of them are still alive. It is not this small person known
12 as Mokom who was at the origin of all that. They knew they had *fétiches* and
13 traditional weapons which they used to face rockets and modern weapons.

14 And thanks to traditional means, that is how people went to Gobere, which is a
15 place high up in the mountains from where people can see things.

16 I am being accused today of crimes committed in Bangui and Bossangoa from 5
17 December 2013 to April 2014 and this is supposed to engage my responsibility
18 as part of an effort to recover power. I absolutely refuse -- I absolutely deny
19 having participated in any plan that involved the crimes that have been
20 charged.

21 Thank you very much, Mr President, for granting me the opportunity to give
22 you my point of view. I am convinced that you are going to assess these
23 accusations and allegations in this case and I thank you for your commitment.

24 I also thank my entire team in the Defence for their effective work. May God
25 bless you. Thank you very much.

1 PRESIDING JUDGE AITALA: [11:46:21] Thank you very much, Mr Mokom.
2 Mr Larochelle, now the floor is yours. You have approximately nine minutes
3 left.

4 MR LAROCHELLE: [11:46:34] Thank you.
5 (Interpretation) Thank you, your Honour.

6 I'll attempt something in Sango - people are listening to us in Bangui - *mbi bara*
7 *âla*. I greet you all. All of you who are listening to this case today, I greet
8 you. I thank Mr Mokom for the confidence he has bestowed on me. I thank
9 my team for all the work they have done over the last months and the Court for
10 the work it has done so that we can have this hearing today.

11 The trial of today is in relation to the situation in the Central African Republic.
12 Your Honours, nine years of investigations on the violence in the Central
13 African Republic since 2012, what did the Prosecutor fish out after nine years
14 of investigations? Said, a prison warden of the Seleka; Yekatom, Ngaïssona
15 for the Anti-Balaka are here being tried. And then there's a small fish,
16 Maxime Mokom, whose case you will decide at the end of this hearing if you
17 decide to commit him to trial.

18 This is quite little, Mr President, I would think, because when you look at the
19 images that the Prosecutor has portrayed, you can notice the intensity and the
20 scope of the violence that happened in that country during the period under
21 review.

22 But where are the brains behind the Seleka plan? They, they had weapons,
23 true weapons. They had military uniforms. They had everything. And
24 they were crimes that could be linked to individuals, to officers and to some
25 leaders, as the case might be.

1 This is a strange type of justice wherein after all these years this is what is
2 happening to the Anti-Balaka. Why is it that the infamous Andjilo,
3 Anti-Balaka, is in prison today, whereas another equally infamous Anti-Balaka,
4 Thierry Lebene, is a militia leader on behalf of President Djotodia, and there
5 are also many Anti-Balakas who several times over have been identified in
6 Bangui but have been treated differently?
7 Why is Yekatom in prison while Captain Kamezolaï and Sebastien Wenezoui
8 and Leopold Bara, and others who spoke on behalf of the Anti-Balaka after
9 they had captured Bangui, they spoke proudly, thanking them for having
10 saved Bangui, and yet they are still free? Why is Ngaissona in prison and
11 why is Kokate a Prosecution witness against him, whereas both were also
12 involved in the setting up of the coordinations which attempted to deal with
13 the Anti-Balaka after Bangui fell on 5 December 2013?
14 Why, we must ask, is Mokom here before you and Ndomate, Wenezoui, both
15 ministers who held important ministerial positions in the transitional
16 government and who were at the very heart of the events in 2013, why are they
17 not here? What are Bara, Ngaya and Demafouth doing today, whereas these
18 are the persons who rushed to Bangui in order to take advantage of the fall of
19 the Seleka?
20 According to the evidence, Bara, Bara, did not represent the Balaka. He is the
21 one who went to N'Djamena to negotiate for the fall of Djotodia, and he was
22 sent by a minister.
23 Who was Djotodia's minister by the way? Why is Mokom here? Who is
24 accusing Mokom? We can't say. We cannot say. It's a mystery. It's a
25 secret. It's a bit of an open secret, not a secret, because we at least have an

1 idea.

2 You see, Demafouth testified in open court. Kokate testified in open court.

3 These are the people who benefited from the Anti-Balaka movement and who
4 did not hesitate to hail the movement in 2012, but today, for opportunistic
5 reasons or reasons best known to them, have appeared before this Court to
6 demonise the Anti-Balaka movement.

7 These are the people whom we have heard, who have been heard, as well as
8 others who have not been heard and whom you know -- and whom we know,
9 who have made it possible for the Prosecutor today to rise in this Court and to
10 assert without blinking that it is the Anti-Balaka, those Anti-Balaka some of
11 whom went barefooted from their villages to Bangui, those Anti-Balaka who
12 got there without food and only had their *fâiches*, and so on and so forth, that
13 they would have been involved in a criminal plan.

14 Tomorrow, during the three hours that I have, I will demonstrate to you that
15 these criminals only exist in the figment of the Prosecutor's mind. They have
16 tried in vain to influence the minds of some witnesses, but I want to reassure
17 you that and I will show you that some know where the truth lies.

18 I will point to exculpatory evidence and indicate to the Court that a realistic
19 and objective analysis of the evidence before the Court does not make it
20 possible to substantiate any such accusations against my client.

21 Thank you.

22 PRESIDING JUDGE AITALA: [11:53:28] Thank you very much, Mr Counsel.
23 So we are done now with the opening statements. We will then start with the
24 submissions on the merits.

25 The Prosecution will start.

1 So the floor is yours. Thank you very much.

2 MS VON BRAUN: [11:53:56] Thank you, your Honour.

3 We will again require access to evidence channel 2.

4 (Pause in proceedings)

5 PRESIDING JUDGE AITALA: [11:55:09] We're experiencing a technical issue
6 about the system, so we will take a break. Hopefully we will start again in 10
7 minutes, or as soon as possible.

8 Thank you very much. See you soon.

9 THE COURT USHER: [11:55:26] All rise.

10 (Recess taken at 11.55 a.m.)

11 (Upon resuming in open session at 12.06 p.m.)

12 THE COURT USHER: [12:06:11] All rise.

13 Please be seated.

14 PRESIDING JUDGE AITALA: [12:06:19] Thank you very much for waiting.

15 Now, the Prosecution, the floor is yours. The countdown starts as of now.

16 Thank you very much.

17 MS VON BRAUN: [12:06:24] Thank you very much, your Honours.

18 Mr President, your Honours, I will set out the Prosecution's case against

19 Mr Mokom in the following 120 minutes. You have received our written
20 submissions and I will focus only on the key aspects of our evidence today.

21 The Prosecution will show that there are substantial grounds to believe that
22 Mr Mokom was an accessory to the crimes as charged and therefore that he
23 should be committed to trial.

24 My presentation will focus on the evidence supporting the charged war crimes
25 and crimes against humanity and then I will focus on Mr Mokom's individual

1 criminal responsibility.

2 As you have heard earlier today from the Deputy Prosecutor in his opening,
3 the 5 December attacks on Bangui and Bossangoa did not take place in a
4 vacuum, rather, they fit a pattern of crimes against Muslim civilians that was
5 reported by national and international media and raised concern in the
6 international community, a pattern that started in September 2013 and
7 continued for months after the attacks, which I will now discuss in detail.
8 I will start with the charged crimes related to Bangui.

9 In the early morning hours of 5 December 2013, around 1,500 Anti-Balaka
10 elements mounted a coordinated attack on Bangui.

11 These elements were organised in several groups and were led by, inter alia,
12 the following persons: Yvon Konate, Rodrigue Ngaïbona, Thierry Lebene,
13 Alfred Rombhot Yekatom and Charles Ngremangou.

14 Yekatom and Ngremangou based themselves in Boeing together with one
15 Sylvestre Yagouzou, who would later become Mr Mokom's deputy.

16 Lebene, Konate and Ngaïbona together with their elements had moved from
17 different directions in the weeks before to join forces at the outskirts of Bangui.

18 One of those who encouraged them to attack the city and was involved in
19 coordinating their efforts was Maxime Mokom.

20 Mr Mokom is charged with aiding and abetting as well as otherwise
21 contributing to the crimes of those Anti-Balaka groups in Bangui on
22 5 December and the months afterwards until at least end of April 2014.

23 Witnesses such as P-1521, P-2269, P-0446 and P-0884 describe how the attack
24 unfolded in detail and your Honours have their accounts on the list of
25 evidence.

1 The Anti-Balaka groups targeted the Seleka in Bangui at Camp Kassai, Camp
2 de Roux, Camp des sapeurs-pompiers, *Assemblée Nationale* and the *Centre*
3 *protestant pour la jeunesse*.

4 P-0889 and P-2232 state that Mr Mokom contributed to this coordination of the
5 attack by pushing the elements from the bush to Bangui. He was also
6 involved in devising the strategy for the attack. I will get back to this later.

7 This attack was initially not successful. Anti-Balaka groups retreated around
8 Bangui and then regrouped to continue to attack in the following weeks until
9 they had achieved Djotodia's resignation and the takeover of Bangui.

10 Once the Seleka regime had been ousted, some of the former leaders of the
11 attack became so-called ComZones, which means zone commander, and the
12 National Coordination of the Anti-Balaka was formalised. Mr Mokom was
13 then designated operations coordinator, which is also reflected in
14 documentation you will see today.

15 The Prosecution's evidence establishes substantial grounds to believe that the
16 charged crimes were committed in Bangui by Anti-Balaka elements in the
17 course of the attack, subsequent attacks until at least end of April 2014.

18 Following the pattern of conduct we have seen in the Prosecution's opening,
19 the Anti-Balaka turned against Muslim civilians.

20 I will first address Counts 2 and 3: Attacks against buildings dedicated to
21 religion.

22 The Anti-Balaka who descended on Bangui targeted religious buildings of the
23 Muslim community including mosques and prayer rooms.

24 For Count 2 and 3 the Prosecution relies on the findings of the Commission of
25 Inquiry, witness statements, as well as imagery of destruction.

1 The evidence shows that Anti-Balaka intentionally destroyed several mosques
2 in the relevant time frame.

3 Your Honours, to go into this issue, I would like to request a brief private
4 session because I would like to reflect on what one witness says who would be
5 identified.

6 PRESIDING JUDGE AITALA: [12:12:57] Mr Court Officer.

7 (Private session at 12.13 p.m.)

8 THE COURT OFFICER: [12:13:16] We're in private session, Mr President.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Open session at 12.14 p.m.)

22 THE COURT OFFICER: [12:14:25] We're back in open session, Mr President.

23 PRESIDING JUDGE AITALA: [12:14:28] Please proceed.

24 MS VON BRAUN: [12:14:30] Thank you.

25 Your Honour, satellite imagery shows the destruction, for instance, of the

1 Boeing mosque.

2 The big map on your screens indicates the location of the mosque in Bangui
3 and the inset squares contain zoomed pictures of the mosque area taken on
4 different days. In these pictures we can see that the mosque, which is the
5 bigger building marked by the yellow circle, was intact on 27 November but
6 that its roof is missing by 8 December 2013.

7 The pictures also show that not only the mosque but also some adjacent
8 buildings were destroyed.

9 P-2125 witnessed the Anti-Balaka destroying this mosque. He recalls that
10 they urinated on the holy Koran, pillaged the building by removing carpets,
11 roofs, doors and even its walls. The witness also heard the Anti-Balaka saying
12 that they did not want to see Muslims there anymore.

13 Witness P-1339 recalls that one of the Anti-Balaka leaders, who took part in the
14 5 September attack, ordered to destroy Muslim houses and mosques, including
15 this mosque.

16 Based on the Commission of Inquiry's final report, at least 43 mosques were
17 completely destroyed in the aftermath of the attack. The Commission of
18 Inquiry visited the mosques of Fouh, Boy-Rabe, Miskine, Malimaka and
19 Ngaragba and could confirm that there was nothing left. The only mosques
20 which were still intact were the few located near PK5.

21 None of the damaged or destroyed mosques constituted a legitimate military
22 objective, nor was there destruction justified by military necessity.

23 Regarding Counts 3 and 4: Destruction of private properties and pillage of
24 shops.

25 Your Honours, during the attack and its aftermath, the Anti-Balaka also

1 intentionally destroyed houses in predominantly Muslim neighbourhoods of
2 Bangui, such as Fouh, Miskine, Combattant, Kina, Sara, PK5, Kokoro, Bouca,
3 PK12 and PK13.

4 In a report, of which your Honours can see an excerpt on the screens right now,
5 UNOSAT assessed that 325 structures in the 3rd arrondissement, which
6 includes PK5 and Kokoro, were destroyed. Between 22 February 2014 and
7 6 June 2014, an additional 469 had been destroyed in the 3rd arrondissement.
8 Again, according to the Commission of Inquiry report, over 1,300 buildings
9 had been destroyed, most being located in the 3rd, 5th and 8th arrondissement
10 in Bangui, where the majority of the city's Muslims lived.

11 Like for the mosques, the houses of Muslims were not destroyed by chance.

12 P-1339 and others recalled that they were ordered to destroy houses.

13 As an example, your Honours, Witness P-0434 recalls the pillaging and
14 destruction of his properties by Anti-Balaka on 22 January 2014. In one video
15 that the witness provided we can see the extent of the damage. As the video
16 is without sound and only an excerpt it can be viewed publicly.

17 (Viewing of the video excerpt)

18 MS VON BRAUN: [12:19:19] P-0434, devoid of property, like so many
19 Muslims of Bangui, fled to Cameroon in early 2014.

20 For Counts 2 to 4 there is evidence that Bangui civilians also took part in some
21 of these destructions. Even though all destructions may not have been
22 committed by Anti-Balaka only, testimonial and documentary evidence
23 corroborate that the Anti-Balaka, with their manpower and organisation,
24 played a key role in it. They had taken control of Bangui at the latest after
25 Djotodia's resignation.

1 Concerning Counts 5 to 6, your Honours have just seen the destruction of the
2 property of P-0434. But the suffering of his family did not end there.
3 After the properties were destroyed, he and his family sought refuge and fled
4 to Cameroon in February 2014.
5 His extended family took refuge in PK5 as this at the same time was the safest
6 place for Muslims. The witness's extended family was then escorted from
7 PK5 to Bangui airport from where, like so many others, the International
8 Organization for Migration evacuated them.
9 Similarly, Witness P-1452 explains that as the Anti-Balaka continued to attack
10 PK5 he also had to evacuate his family to Chad. This was in January 2014.
11 He himself later also had to leave CAR after his businesses had been destroyed
12 by Anti-Balaka.
13 Like P-1452, P-1676 describes the decision to leave PK5 with his family and out
14 of fear of the anti-Muslim violence at the time.
15 The Prosecution has interviewed more witnesses who describe that from 5
16 December onwards, the Anti-Balaka acts directed at civilians left thousands of
17 Muslim civilians with no choice but to leave their homes and flee to other parts
18 of CAR or to neighbouring countries such as Cameroon or Chad.
19 Witness P-2328, who had a good overview of the situation at the time, and I
20 quote him in French:
21 (Interpretation) "Between January and March 2014, the entire Muslim
22 population of Bangui became afraid. The Muslims therefore decided to leave
23 the town, faced with the harassment of the Anti-Balaka."
24 (Speaks English) End of quote.
25 And, your Honours, the Anti-Balaka elements in Bangui were vocal about

1 these intentions. For instance, they told Human Rights Watch that they
2 would kill Muslims remaining in the neighbourhoods of PK12, PK13, Miskine,
3 and Pk5. I'm referring here to CAR-OTP-2001-2237.

4 In this video which I would like to play for you now, you can see hundreds of
5 Muslims who stayed at the airport of Bangui in the hope of being evacuated to
6 Chad, thus transforming the airport also into a refugee camp.

7 This video is in English.

8 (Viewing of the video excerpt)

9 (The following inserted excerpt is a transcription prepared and provided by the
10 parties of the aforementioned recording without any modification or alteration)

11 "Hundreds of Muslims are here sheltering for now amidst what remains of a
12 National Airforce. This imam told me his mosque was burnt down, his
13 parents murdered, everything stolen. All by the Christian militia: the
14 ANTI-BALAKA."

15 MS VON BRAUN: [12:23:42] Tens of thousands more fled on road convoys.

16 P-2698 described how by around 20 December 2013, the majority of Muslims in
17 PK5 had fled in a number of large vehicles brought in from Chad and taken to
18 Cameroon or Chad.

19 On your screen, your Honours, you can see photos of remaining Muslims
20 sheltering at the PK5 mosque and of a convoy leaving on 14 January 2014 from
21 PK5.

22 On the next slide, images of Muslim civilians having to flee Bangui on 1 April
23 are captured.

24 P-1577 recounts that end of January 2014 he came across the only Muslim
25 family left in an area around PK13/PK14. This family had to be accompanied

1 by French forces to an enclave to save them from Anti-Balaka who had
2 threatened to kill them.

3 This witness also saw the evacuations by the convoys. He said the Muslims
4 had no choice but to leave.

5 Reports by organisations such as the Commission of Inquiry and *Médecins sans*
6 *Frontières*, for example, indicate that approximately 99 per cent of the city's
7 Muslim population had to flee by March 2014 and that 80 per cent of the entire
8 country's Muslim population fled to Cameroon or Chad in this period.

9 Bangui had been emptied of its Muslim population by at least in large part the
10 actions of the Anti-Balaka.

11 Regarding Count 7, those civilians who fled due to the Anti-Balaka attacks
12 against them but were not able to reach a neighbouring country were trapped
13 in PK5 around the central mosque area. They were thus deprived of their
14 liberty.

15 This is confirmed by Witnesses P-1339 and P-2328 for instance. Specifically,
16 Muslim civilians were unable to leave this area due to the constant and
17 conspicuous threat of violence by the Anti-Balaka if they tried to do so.

18 P-1339, for example, stated that after the attack on 5 December Muslims from
19 Boeing all fled to PK5, to the central mosque.

20 Another witness described how on 5 December he and 11 other family
21 members quickly left their home in a neighbourhood in Bangui and also fled
22 for their lives to PK5.

23 P-2328 states that in the aftermath of the December attack Muslims from all
24 over Bangui had to seek refuge around the central mosque because the
25 Anti-Balaka had started to go after the Muslim population. He describes how

1 Anti-Balaka were harassing the Muslims in PK5, outside of PK5 enclave, by
2 shooting their weapons.

3 Another witness, P-2472, stated that the enclave was encircled by Anti-Balaka
4 so that Muslims could not leave. He also described how bodies were
5 regularly brought to the Ali Babolo mosque and that many Muslims in PK5
6 saw those bodies who were killed in a brutal manner.

7 Being encircled like this and seeing these dead bodies worked as a threat and
8 confined the Muslim civilians to the enclave.

9 There they had to endure a lack of adequate food, shelter, and sanitation.

10 Contemporaneous NGO reports, information gathered by the Commission of
11 Inquiry, as well as journalists and victims, describe the humanitarian condition
12 in the enclave. I refer you, for example, to the statement of Witness P-1865,
13 which is at CAR-OTP-2066-0134 at paragraph 47.

14 The Commission of Inquiry also reported that because of the siege on this
15 enclave, the Muslims holed up there suffered from lack of food and medicine,
16 and could not find burying ground or cemeteries for their dead in that time.

17 On your screen you see an example of how Muslims lived in this enclave at the
18 relevant time.

19 In this way, the Anti-Balaka severely deprived thousands of Muslims in Bangui
20 in the PK5 enclave of their physical liberty, in violation of fundamental rules of
21 international law and in the aftermath of the 5 December attack. This is
22 charged under Count 7.

23 Your Honours, the criminal acts in relation to Bangui that I've just described
24 were committed by Anti-Balaka elements in Bangui.

25 They also form part of the underlying acts of persecution, which is charged as

1 Count 8. The Anti-Balaka targeted the Muslim civilian population because,
2 based on their religious, political, national or ethnic affiliation, they perceived
3 them as collectively responsible or complicit with, supportive of the Seleka.
4 The Anti-Balaka therefore carried out the crimes I just described with the intent
5 to discriminate on multiple prohibitive grounds.
6 The persecutory intent - to target the Muslim population - coexisted alongside
7 the Anti-Balaka's desire to regain power and the desire for revenge. The two
8 were closely associated.
9 The pattern I have described shows that the victims were targeted based on
10 their actual or perceived Muslim religion. The perpetrators attacked their
11 places of worship like mosques and prayer rooms.
12 The fact that the victims were perceived as politically affiliated to and
13 supportive of Seleka shows also that the victims were targeted on political
14 grounds.
15 We will get further into the statements provided by insider witnesses and
16 public statements of Anti-Balaka elements and high-ranking Anti-Balaka in
17 Mokom's responsibility section, but at this point I would already like to refer
18 you to the evidence of P-2625 at CAR-OTP-2123-0377, paragraph 133, where he
19 explains that all Muslims were considered Seleka, and in his court testimony
20 where he stated that everything seemed to show that there was a plan to
21 liquidate the Muslims and this was a response to the violations committed by
22 the Seleka, of Mr Mokom has spoken of these this morning himself.
23 By the same token, ethnicities such as Goula, Rounga, Youlou, Kara, Sara,
24 Peuhl and Hausa associated with certain national origins like Chad or Sudan,
25 were perceived as supportive of Seleka and therefore targeted by national or

1 ethnic grounds.

2 Insofar I refer you to CAR-OTP-2088-2034, which is a speech of a leading
3 Anti-Balaka member, an interview given on 5 December.

4 The Anti-Balaka's attack on the Muslim civilians severely deprived them of
5 fundamental rights, including the right to liberty, mental and bodily integrity,
6 dignity, property and religious freedom.

7 My previous submissions under Count 2 to 4, Counts 5 to 7, Count 8, also
8 qualify as the underlying conduct for the war crime of directing attacks against
9 the civilian population.

10 Civilians not taking part in the hostilities were one of the objects of the attack.
11 In addition to fighting the Seleka forces, the Anti-Balaka also intended to target
12 Muslim civilians in Bangui. They did not halt their attacks on these civilians
13 after the Seleka had withdrawn.

14 Witness P-1528 stated that he learnt after the 5 December attack that Christians
15 had even been warned and placed palm leaves outside their homes to be
16 spared by the Anti-Balaka. I refer your Honours to the statement and his trial
17 testimony transcript at CAR-OTP-2048-0757, at paragraph 33, and
18 CAR-OTP-00001031, page 27 onwards.

19 Most of the destroyed homes were not the homes of Seleka elements.
20 That Muslim civilians were also the object of the attack is not only inferred
21 from the criminal conduct and its effects. Rather, your Honours, you will hear
22 the voices of Anti-Balaka and their intention to attack Muslim civilians in
23 Bangui when I cover the evidence in relation to the modes of liability.

24 Let me now turn to Bossangoa.

25 Mr Mokom is charged with aiding and abetting as well as otherwise

1 contributing to the crimes of the Anti-Balaka group in Bossangoa on 5
2 December and the months afterwards until at least end of April 2014 here as
3 well.

4 Bossangoa lies to the north of Bangui in Ouham province. In 2003 the
5 population still included 8,000 Muslims.

6 The evidence shows that the Anti-Balaka groups were mostly comprised of the
7 so-called Gobere group. Mr Mokom has spoken of them himself this morning.
8 This group attacked Bossangoa around 14 hours on 5 December. Witnesses
9 provide evidence that they were led by Florent Kema and Ndangba Pissidi
10 during this attack.

11 Prior to the attack there had been a meeting of Anti-Balaka groups in the
12 geographical area between Bangui and Bossangoa and during this meeting it
13 had been decided who would attack Bossangoa and who would turn to
14 Bangui.

15 This attack was planned to take place on the same day as the Bangui attack.
16 Again during this attack and in its aftermath, the Anti-Balaka turned their
17 attention to targeting the Muslim population in Bossangoa. Florent Kema
18 later told the UN Panel of Experts that - in addition to getting rid of the
19 Seleka - the main objective of his group was to chase out all the Muslims of
20 Ouham province, where Bossangoa lies.

21 The crimes against Muslims there show that this simplified message was taken
22 on by Anti-Balaka elements already during the attack.

23 Your Honours, I will now turn to the charge of murder.

24 In the course of the attack the evidence demonstrates that at least 18 Muslim
25 civilians were killed by Anti-Balaka elements. These civilians were taking no

1 active part in the hostilities, they were not armed. I refer your Honours
2 especially to the evidence of P-2200.

3 The Prosecution has direct evidence of the killings by eyewitnesses as well as
4 witnesses who saw the bodies of those killed.

5 As provided by P-2462, P-2657 and P-2453, the identified victims were not
6 taking part in armed hostilities as they were killed. And that the perpetrators
7 were indeed Anti-Balaka elements is also based on their descriptions.

8 On your screen, your Honours, you have an image of these victims at a
9 building which was called *maison de Kolingba*, close to the place where the
10 bodies would then be buried.

11 One of the victims was Khadidja Adjaro. She was part of a group of Muslim
12 civilians who had stayed in the Boro neighbourhood of Bossangoa and did not
13 manage to flee. Khadidja Adjaro was killed by bullet and her foot was ripped
14 apart.

15 Other dead bodies were found with hers.

16 For further details, I refer you to the following references:

17 CAR-OTP-2088-2173 at 2198, paragraphs 81 to 90, and CAR-OTP-2111-0415 at
18 paragraph 67.

19 Witness evidence in relation to these victims is supported by photographic
20 imagery, for example, CAR-OTP-2085-3982.

21 Your Honours, in the course of this attack of the Bossangoa Anti-Balaka group
22 at least two young Muslim women were raped by Anti-Balaka elements,
23 namely P-2462 and P-2657.

24 Both women have provided their personal accounts, which is before you on the
25 list of evidence.

1 Both women were identifiable as Muslim on account of their clothing at the
2 time.

3 Both women suffer tremendously to this day from the effects of the rape.

4 I will now turn to Counts 14 and 15: Attacks against buildings dedicated to
5 religion, destruction of the adversary's property.

6 Based on the accounts of several witnesses such as P-2200, P-2049, P-2133,
7 P-2453 and P-2462, there are substantial grounds to believe that also hundreds
8 of buildings of mostly residential nature were destroyed by Anti-Balaka
9 elements during and in the aftermath of the attack.

10 The Prosecution relies on the satellite imagery provided by UNOSAT. This is
11 at CAR-OTP-2079-0671, visible on the screen.

12 According to UNOSAT's analysis, 1,234 houses of a mostly residential nature
13 and located in Muslim neighbourhoods such as Boro were destroyed.

14 In his trial testimony in the case of Yekatom and Ngaïssona, P-2193 commented
15 also on a photo provided by P-1577 of a destroyed structure, and he testified
16 that what he saw and the type of destruction was consistent with what he
17 could detect on the satellite imagery.

18 I refer you to CAR-OTP-00001083, at pages 26 and 27.

19 Your Honours, for the purpose of showing you the next video I would like to
20 request a short private session because it could otherwise be identifying, and
21 that footage had been shown in private session in Yekatom and Ngaïssona.

22 PRESIDING JUDGE AITALA: [12:42:22] Mr Court Officer, kindly move into
23 private session.

24 (Private session at 12.42 p.m.)

25 THE COURT OFFICER: [12:42:42] We're in private session, Mr President.

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Open session at 12.44 p.m.)

15 THE COURT OFFICER: [12:44:37] We're back in open session, Mr President.

16 PRESIDING JUDGE AITALA: [12:44:40] Please continue.

17 MS VON BRAUN: [12:44:42] Thank you.

18 Thus the evidence shows that the central mosque of Bossangoa was reduced to
19 ruins by Anti-Balaka elements in the aftermath of the attack.

20 Witnesses P-2200, 2453 and 2462 provide evidence in relation of the timing of
21 the destruction around 9 December 2013 by Anti-Balaka elements.

22 Your Honours, after the attack, and in its course - aided also by
23 civilians - Anti-Balaka elements pillaged Muslim houses and shops with the
24 intent to take the property for private or personal use. This property was
25 appropriated without genuine and valid consent.

1 In relation to this count I refer your Honours to the evidence cited in the DCC
2 annex for this count and more specifically to the descriptions of P-2049 and
3 P-2453.

4 Furthermore, without grounds permitted under international law, and by
5 expulsion or other coercive effects, the Anti-Balaka forced Muslim civilians in
6 Bossangoa of all ages, including children and the elderly, to leave their homes
7 and communities, where they were lawfully present. This is captured under
8 Count 17 to 18.

9 These civilians sought refuge at *École de la Liberté*.

10 The Prosecution has collected satellite imagery analysed by UNOSAT showing
11 the sudden appearance of tent shelters at the school at the relevant time.

12 Compare this image taken on 4 December 2013 on your screen with this image
13 taken on 12 December 2013. It clearly reveals the development of the shelter.

14 Again, the catalyst for this movement of people to this place was clear: The
15 Muslims fled there because the Anti-Balaka had attacked their neighbourhoods
16 and destroyed their property and they feared for their lives.

17 And the conditions at this school compound were horrible. The refugees had
18 to be protected by soldiers.

19 You can see these conditions in an excerpt of this video which was broadcast
20 on 17 December 2013. It is in the English language.

21 (Viewing of the video excerpt)

22 (The following inserted excerpt is a transcription prepared and provided to the
23 parties of the aforementioned recording without any modification or alteration)

24 "A few hundred meters from the Christian camp, 7,000 displaced Muslim
25 refugees are living here, in a camp set up on the site of a school.

1 [00:01:05. Sous-titrage : << Ils ont des armes. Moi, j'ai vu tout ça. >>]
2 [Les cinq lignes suivantes sont prononcées simultanément]
3 INI : Ils ont les armes.
4 Journaliste : [Voix off] They have weapons.
5 INI : Moi, j'ai vu ... moi aussi, j'ai vu ça.
6 Journaliste : [Voix off] I have seen that for myself, she says.
7 INI : ...ils sont sortis à ...
8 [00:01:10. Sous-titrage : << Ils sont venus de l'évêché, ils ont tout cassé dans ma
9 maison. Ils ont tout volé. >>]
10 Journaliste : [Voix off] They came from the church and they broke everything.
11 They stole everything ..."
12 MS VON BRAUN: [12:48:08] P-0966 states that the Anti-Balaka elements
13 cleansed the houses in Bossangoa of Muslims so that Christians could go back
14 to their lives. He states that they put women and children in the Liberté
15 neighbourhood of Bossangoa.
16 The evidence as cited in our DCC annex shows that by the end of April 2014,
17 virtually the entire Muslim population remaining in Bossangoa had been
18 evacuated, mainly to Chad, to prevent them from being killed.
19 Muslim civilians of all ages were also deprived of their liberty. The
20 Anti-Balaka prevented them from leaving on threat of death while they were
21 holed up at the *École de la Liberté*. They had to be protected by international
22 forces.
23 P-2657 recalled that these forces were protecting the refugees and that they
24 were afraid to leave -- the refugees I mean. "It was like a prison", this witness
25 says.

1 Several witnesses also speak of a case concerning a man named Yaya Makonzi
2 who had been hacked to death after leaving the *école*. The incident further
3 entrenched their sense that they could not leave the enclave without risking
4 death.

5 The conduct described related to Bossangoa also meets the elements of
6 persecution as charged under Count 20. By targeting the Muslim civilian
7 population of Bossangoa in these ways, on the basis of their real or perceived
8 national, political, religious or ethnic affiliation, the Anti-Balaka acted with a
9 persecutory intent.

10 The previous submissions under Counts 10 to 11, Counts 14 to 16, Counts 17 to
11 19, and Count 20, also qualify as the underlying conduct for the war crime of
12 directing attacks against the civilian population.

13 And as stated above, the attack against these civilians was planned and it
14 intentionally targeted Muslim civilians.

15 Your Honours, the evidence demonstrates that the contextual elements of
16 crimes against humanity and war crimes are also met.

17 Based on our written submissions, the presentation of the evidence in the
18 opening statement in relation to the pattern of criminality against Muslim
19 civilians, as well as the presentation related to the charged crimes, there are
20 substantial grounds to believe that these charged crimes were committed as
21 part of a widespread and systematic attack against a civilian population. The
22 attack was carried out pursuant to an Anti-Balaka policy to target the Muslim
23 civilian population in western CAR because they were perceived as collectively
24 responsible for the crimes committed by the Seleka, or otherwise complicit
25 with or supportive of the Seleka.

1 The evidence further shows that the charged crimes were committed in the
2 context of a protracted non-international armed conflict.

3 Your Honours, I see the time is approaching 1 o'clock. I would now start on
4 Mr Mokom's responsibility, however, we could also do that after the break.
5 I'm in your hands here.

6 PRESIDING JUDGE AITALA: [12:52:13] We will finish a bit later than 1 to
7 make up for some of the lost time, so please continue until five past 1, more or
8 less. Thank you.

9 MS VON BRAUN: [12:52:23] Okay.

10 Mr President, your Honours, Mr Mokom is charged under two alternative
11 modes of liability, Article 25(3)(c) and Article 25(3)(d).

12 The evidence demonstrates that by mid-2013 key Bozizé allies, such as
13 Patrice-Edouard Ngaïssona and Bernard Mokom, had designed a strategy to
14 reclaim power in CAR and militarily oust the Seleka and its perceived
15 supporters.

16 The evidence also demonstrates that, while implementing this strategy, the
17 group of Anti-Balaka who committed the crimes against Muslim civilians acted
18 pursuant to a common purpose under 25(3)(d) and this purpose entailed
19 targeting Muslim civilians including by means of the charged crimes.

20 And, your Honours, Mr Mokom was no mere bystander or functionary.

21 Rather, he was an important force within the Anti-Balaka, who was both
22 sophisticated and well-informed.

23 Someone who, through his family connections to President Bozizé and his past
24 positions, was involved in or at least highly aware of the ongoing armed
25 conflict in CAR.

1 Someone who was well connected due to his intelligence and police
2 background and long-standing relationship with Bozizé and his inner circle.
3 Someone who was well informed about CAR history and politics.
4 Someone who knew that the Anti-Balaka was largely comprised of ad hoc
5 troops with minimal or no training who had joined the fight because they were
6 angry and had a serious axe to grind. We have heard him this morning.
7 Someone who, as Anti-Balaka operations coordinator, was in constant contact
8 with high-rank elements and troops on the ground and kept abreast of their
9 operations before and after the 5 December attack.
10 In these circumstances, as I will explain in more detail shortly, Mr Mokom
11 must have known - as any reasonable person in his situation would have
12 known - that the large-scale attacks and subsequent operations in Bossangoa
13 and Bangui would foreseeably result in abuses like the ones charged against
14 the Muslim civilian population.
15 The scale of the crimes, their temporal and geographical scope, their consistent
16 pattern - same *modus operandi*, same type of perpetrator, same type of
17 victim - show that the Anti-Balaka perpetrators of the charged crimes did not
18 act independently from one another but as a group of persons acting in concert.
19 P-2087, who was a close observer of the situation, understood that the objective
20 of the Anti-Balaka generally was to chase out the Seleka, but because they
21 made an association between Seleka, Sudanese, Chadians, foreigners, they
22 would group them all together as their enemy. In the lower ranks, explains
23 the witness, the perceived enemy simply became Muslims in general.
24 That the Anti-Balaka groups who were committing the crimes had in common
25 a purpose is further shown by the anti-Muslim sentiments expressed by rank

1 and file but also high-rank Anti-Balakas who were close to Mr Mokom.

2 This next short video is from Bossangoa in October 2013. In it an Anti-Balaka
3 element describes how the Seleka killed and decapitated his brother. Then
4 another Anti-Balaka explains they kill Muslim civilians because, and I quote,
5 "They do the same to us." And you can watch this video now.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: [12:57:22](Interpretation of the video excerpt)

8 "The Seleka took a spear. They pulled out his ears. There was a spear. And
9 I was fleeing. When they left the village, I came back. I took a piece of cloth.
10 I picked up the pieces of my brother's body and I put them in a hole.
11 These are young people who are burning with vengeance, endless vengeance.
12 They are taking it out on civilian rebels who are now being killed in the bushes
13 because they are just like them.

14 What they do to us we will do to them."

15 MS VON BRAUN: [12:58:03] In the next excerpt, which is from

16 CAR-OTP-2065-3188, taken on 10 December 2013 in an Anti-Balaka camp in
17 Boeing neighbourhood, you will hear an Anti-Balaka element showing a
18 teargas gun. He explains that they use it to drive Muslims from their homes
19 so they can kill them all, including the children.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [12:58:32](Interpretation of the video excerpt)

22 "Well, we have to launch this towards the Muslims who are in their homes so
23 that they may come out. Once we smoke them out and then we kill them.
24 We kill them. Even little children, we kill them."

25 MS VON BRAUN: [12:58:52] Your Honours, the next slide is an excerpt video

1 taken from a recorded interview dated 13 December 2013 in which your
2 Honours can hear and see Sylvestre Yagouzou, an Anti-Balaka spokesperson.
3 Yagouzou, who also took part in the 5 December attack, was a close associate
4 of Mr Mokom and there is evidence that he later became his deputy when the
5 National Coordination was founded.

6 Hear his own words in the following video.

7 (Viewing of the video excerpt)

8 THE INTERPRETER: [12:59:31](Interpretation of the video excerpt)

9 "Our message, we the Anti-Balaka, I am their spokesperson, and this is what I
10 have to say. I call on that so-called infamous president Djotodia to resign.
11 He must resign. I give him 24 hours, 24 hours. I say it again, 24 hours. He
12 must resign in order to save -- well, if he is conscious and wise and resigns, it
13 would mean that he would have saved Muslim Central Africans. But if the
14 contrary happens and he doesn't resign, then we will carry out a massacre, and
15 that is very clear."

16 MS VON BRAUN: [13:00:22] These excerpts show that the Anti-Balaka group
17 shared the common purpose to target the Muslim civilians, a purpose that was
18 rooted in vengeance and hatred on account of unspeakable atrocities the Seleka
19 perpetrated largely, if not only, against non-Muslim civilians.

20 But *tu quoque* is not a defence in law. It explains the Anti-Balaka's
21 rationalisation of their own conduct.

22 If I have a little bit more time before the break I will go into Mr Mokom's
23 contributions now. Yes? Five minutes?

24 PRESIDING JUDGE AITALA: [13:01:06] Five minutes, yes.

25 MS VON BRAUN: [13:01:08] All right.

1 Your Honours, Mr Mokom, on the basis of the evidence before you,
2 contributed in at least four ways to the charged crimes:
3 Firstly, by helping organise and structure the Anti-Balaka, right from its
4 earliest days, especially by supporting the Gobere group and then later on in
5 his role as official coordinator in Bangui.
6 Secondly, by providing material support, in particular ammunition.
7 Thirdly, by helping coordinate the movement of fighters and in the design of
8 the attacks themselves.
9 Fourthly, by providing advice, instructions, moral support and encouragement
10 to Anti-Balaka fighters on the ground, both before and after the charged attacks
11 and within the charged period.
12 Given that these contributions overlap factually, I will address them jointly, but
13 chronologically, distinguishing two periods.
14 First I will address the period when Mr Mokom was still in exile in Zongo, and
15 then second I will address the period with a particular focus on after he had
16 relocated to Bangui.
17 Let's first turn to Mr Mokom's contributions while he was still residing in
18 Zongo, and particularly his contributions to the 5 December attacks on Bangui
19 and Bossangoa.
20 Mr Mokom's contributions to the overall development of the Anti-Balaka are
21 important as they improve the capability of the Anti-Balaka as a fighting force
22 and thereby made it more possible for the charged crimes to eventually occur.
23 The Prosecution can rely on at least 12 insiders who show that Mr Mokom was
24 a person of influence within the groups. He liaised with key Anti-Balaka
25 figures, both those on the ground in CAR and leadership figures in exile in

1 Cameroon, Democratic Republic of the Congo, and other places. Meaning
2 that he spoke with them, he strategised with them and he supported the
3 movement as a whole from Zongo.

4 The witnesses I refer to are in particular P-0446, P-0884, P-0889, P-0966, P-1172,
5 P-1339, P-1521, P-1719, P-1847, P-2232, P-2269 and P-2328.

6 Multiple of these insiders also report that Mr Mokom helped arrange
7 ammunition and weapons for the Anti-Balaka in advance of the 5 December
8 attacks.

9 And to deal with this issue I would request a private session, but maybe we do
10 that after the break.

11 PRESIDING JUDGE AITALA: [13:05:02] Yes, we can pause here. You have
12 roughly had already one hour.

13 Before I adjourn the hearing, you will need to specify the ERNs of items of
14 evidence you have referred to earlier. If you kindly do this at the beginning of
15 next session and from then on just refer to the numbers any time you present
16 an item of evidence for the record and for the transcripts.

17 So now I will adjourn the hearing for 90 minutes, so we will start again at 14:35.
18 Thank you very much.

19 THE COURT USHER: [13:05:45] All rise.

20 (Recess taken at 1.05 p.m.)

21 (Upon resuming in open session at 2.37 p.m.)

22 THE COURT USHER: [14:37:25] All rise.

23 Please be seated.

24 PRESIDING JUDGE AITALA: [14:37:37] Good afternoon. Welcome back.

25 Madam Prosecutor, the floor is yours.

1 MS VON BRAUN: [14:37:50] Thank you, your Honour.
2 I will start with the references you requested, and please accept my apologies
3 for skipping over them previously.
4 So in relation to my previous submissions, for the destruction of the Boeing
5 mosque, please refer to CAR-OTP-2127-6626 at 6627. For the destruction of
6 Muslim property slide, CAR-OTP-2075-0670. For the destruction of
7 a Muslim-owned house, CAR-OTP-2014-0751. For Muslim refugees at the
8 Bangui airport imagery, CAR-OTP-2107-1185.
9 For images related to the PK5 enclave and the January convoy,
10 CAR-OTP-2073-0258 and 0338; related to the first April convoy, the images,
11 CAR-OTP-2061-4281, 4284, 4285 and 4287.
12 In relation to the living conditions in PK5, CAR-OTP-2073-0269.
13 The image related to the count of murder related to Bossangoa,
14 CAR-OTP-2088-2207.
15 Imagery related to the destruction in Bossangoa, CAR-OTP-2079-0671.
16 In relation to the destruction of the mosque in Bossangoa, please refer to
17 CAR-OTP-2088-2204.
18 Then, in relation to the enclave in Bossangoa, the imageries that you saw are at
19 CAR-OTP-2127-6626 at 6629; related to the conditions in the Bossangoa enclave,
20 the video is at CAR-OTP-2079-0677.
21 And then the video with the quote: "They do the same to us", is at
22 CAR-OTP-2066-5308.
23 The video with the quote: "We are going to kill the little children too", is at
24 CAR-OTP-2065-3188.
25 And the last video before the break referencing the quote:

1 "We are going to make a massacre", is at CAR-OTP-2065-5468.

2 PRESIDING JUDGE AITALA: [14:41:21] Thank you very much.

3 MS VON BRAUN: [14:41:30] Your Honours, before the break, we had begun
4 speaking about the contributions of Mr Mokom, and I had left off at discussing
5 his contributions in terms of weapons and ammunitions to the Anti-Balaka.

6 In order to address the evidence in relation to this contribution, I would like to
7 request a short private session because the insider witnesses I will reference
8 have to stay protected.

9 PRESIDING JUDGE AITALA: [14:42:08] Yes, your request is granted.

10 Mr Court Officer, please.

11 (Private session at 2.42 p.m.)

12 THE COURT OFFICER: [14:42:16] We are in private session, Mr President.

13 (Redacted)

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16 (Open session at 2.45 p.m.)
17 THE COURT OFFICER: [14:45:55] We are back in open session, Mr President.
18 PRESIDING JUDGE AITALA: [14:45:59] Thank you, sir.
19 Kindly continue.
20 MS VON BRAUN: [14:46:04] In addition to arranging such materiel supplies,
21 Mr Mokom kept track of the enlistment of fighters. An insider witness from
22 the Gobre group, who helped compile these lists, explained how it worked
23 from the CAR side, and this I can reference in open session because it was also
24 referenced openly in Yekatom and Ngaïssona.
25 For the record, the reference here is the witness's statement at

1 CAR-OTP-2031-0248 at paragraphs 36 and 38 and his trial testimony at
2 CAR-OTP-00000950, at pages 14 to 15 and 18 to 20.

3 According to this witness, when a new fighter joined the group, their name
4 would be recorded on a registry the group had. Later, an Anti-Balaka leader
5 like Dedane or Kema would communicate the names of new fighters by phone
6 to Mr Mokom. Adjustments to the lists would also be communicated after
7 attacks to keep track of which men had been lost and which were still alive.
8 The witness says that these lists were sent to Mr Mokom. A Zongo-based
9 witness confirms that Mr Mokom recorded and maintained these types of lists,
10 lists of fighters and -- on his computer. For the record, the reference is
11 CAR-OTP-2100-2569 at 0282, paragraph 72.

12 Using his knowledge of the situation in the field, Mr Mokom helped advise
13 also on troop movements and helped plan and direct early attacks in the
14 provinces between September and early December 2013. This is according to
15 witnesses on the ground in CAR and witnesses based in Zongo, alongside
16 Mr Mokom. For the record, the references include: CAR-OTP-2031-0241 at
17 0247 paragraph 33, and CAR-OTP-2100-2569 at 2574, paragraphs 26 to 31.

18 Mr Mokom also contributed to the charged attacks and resulting crimes,
19 therefore, by encouraging his associates who were with him in Zongo to fight
20 with the Anti-Balaka. The Prosecution's list of witnesses include two
21 examples of such associates, both of these witnesses report having been
22 encouraged or directed by Mr Mokom to cross the river from Zongo into CAR
23 to join the Anti-Balaka. And both of these Prosecution witnesses ultimately
24 took part in the charged attack on Bangui.

25 The first of these two witnesses is P-0446. He describes attending a meeting

1 that Mr Mokom held in Zongo shortly before the Bangui attack where many
2 other elements attended as well. In that meeting, Mr Mokom called upon his
3 comrades to join the fight in Bangui. The witness was one of many men who
4 answered that call. He and others crossed over to Bangui shortly thereafter
5 and fought in the charged attack.

6 The reference here is CAR-OTP-2059-1626 at 1646.

7 The witness's account that Mr Mokom sent fighters from Zongo to Bangui
8 shortly before the charged attack is supported by Mr Mokom's own Facebook
9 communications from the period where Mr Mokom refers to his men having
10 crossed over to Bangui.

11 In a conversation on 2 December 2013 with another member of Bozizé's inner
12 circle, Mr Mokom tells this man, and I quote, in French:

13 (Interpretation) "My men here have already crossed over to Bangui.

14 Everything is going on well. We are together."

15 (Speaks English) For the record, the reference is CAR-OTP-2066-3003 at 3078.

16 Another witness says Mr Mokom had given him a task when he left Zongo,
17 and that was to fight the Seleka to help lead the rebellion. The witness
18 performed this task, including by fighting in attacks in the provinces and
19 ultimately taking part in the charged 5 December attack on Bangui. The
20 reference here is CAR-OTP-2111-0336.

21 Now, your Honours, Mr Mokom was not physically present during either the
22 Bossangoa or the Bangui attacks and, for sure, Mr Mokom was also not the
23 only person involved in planning, overseeing or otherwise being involved in
24 these two offensives.

25 Nevertheless, the evidence shows that Mr Mokom's actions encouraged the

1 fighters to come together and therefore helped carry out these attacks.
2 Broadly speaking, Mr Mokom's efforts to liaise between different Anti-Balaka
3 groups and members served to help unify these groups and focus their aims on
4 a larger goal beyond defending their own villages.

5 According to P-0889, it was due to Mr Mokom that people like Andjilo and
6 other Anti-Balaka leaders ended up going to Bangui to fight the Seleka in the
7 capital. This witness describes how Mr Mokom achieved this by encouraging
8 the different village self-defence groups to come together to help take back
9 their villages, and then eventually to come together and to free Bangui. The
10 reference here is CAR-OTP-0000942 at pages 16 to 17.

11 To illustrate this with an example, your Honours, I would like to go again into
12 a brief private session.

13 PRESIDING JUDGE AITALA: [14:53:35] Yes, your request is granted.

14 Mr Court Officer.

15 (Private session at 2.53 p.m.)

16 THE COURT OFFICER: [14:53:43] We are in private session, Mr President.

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12 (Open session at 2.58 p.m.)

13 THE COURT OFFICER: [14:58:31] We are back in open session.

14 PRESIDING JUDGE AITALA: [14:58:35] Many thanks.

15 Kindly continue.

16 MS VON BRAUN: [14:58:40] In relation to the Bangui attack, insiders give

17 detailed first-hand accounts of Mr Mokom's actions. They said that

18 Mr Mokom helped to prepare the strategy for the attack, liaised continuously

19 by phone with key personnel in Bangui in the days before the attack. Again,

20 he was not the only one doing this, but these insiders support that he had a role

21 to play. The references here are CAR-OTP-2100-2569 at 0576, paragraph 37.

22 The accounts of these insiders are supported by the insider accounts of other

23 Anti-Balaka who were across the river and in Bangui at the time of the attack.

24 These include P-0446, who states that Mr Mokom, while based in Zongo,

25 remained as the overall coordinator of the attack coordinating by phone.

1 For the record, the reference is CAR-OTP-2059-1672 at 1693.

2 As an aside note, your Honours, Zongo is so close to Bangui, a mere
3 two kilometres away, that phone calls from Zongo connect to Bangui cell sites.
4 Telecommunications support that Mr Mokom was actively engaged in relation
5 to the 5 December attack. These records show Mr Mokom communicating
6 with known leaders of the attack, including the day before the attack and
7 during the attack itself.

8 Mr Mokom was in particularly frequent contact with Charles Ngremangou and
9 Yvon Konaté. As noted previously, both of them played an important role in
10 this attack: Ngremangou as one of the leaders of the group that attacked the
11 Boeing area, and Konaté as the leader of the group that targeted Camp Kassai.
12 On 5 December 2013, Mr Mokom's first contact with Konaté started very early
13 at 43 minutes after midnight. Mokom's last call of the day at 22:16 was also to
14 Konaté. For the record, I'm referring you here to the call sequence table at
15 CAR-OTP-00001189 at rows 154 and 538.

16 Similarly, Mr Mokom's first contact with Ngremangou started in the early
17 morning of the day of the attack. They first spoke at 5:32 and continued
18 infrequent contact throughout the day with a last contact at 16:40. I'm
19 referring again to the same call sequence table at rows 169 and 500.

20 The records also show Mr Mokom communicating on the day of the attack
21 with fighters that he had sent from his Zongo group; namely, Lieutenant Bruno
22 Semdiro and Lieutenant Abel Denamganai. I refer here to rows 381 to 382 and
23 rows 442 to 445 of the same call sequence table.

24 I will now turn to Mr Mokom's contributions in the period after the attack
25 when he had relocated to Bangui. According to multiple insiders, Mr Mokom

1 continued to coordinate the Anti-Balaka, first, from his base in Zongo and then
2 after relocating to Bangui, from Bangui itself.

3 In a video referenced at CAR-OTP-2095-2903, filmed on 10 December,
4 Yagouzou is filmed speaking about still being in contact with Commander
5 Mokom. He refers to him as "*l'unique commandant Mokom*" regarding
6 decisions on strategy.

7 The evidence shows that Mokom relocated to Bangui around 6 February 2014.
8 Mr Mokom was then officially designated as the Anti-Balaka National
9 Coordinator of Operations, at the latest, on 14 February 2014, when it was
10 announced.

11 Your Honours, please recall what the situation for Muslims was like in Bangui
12 at this time. One insider witness states that Mokom then said the following at
13 a meeting with ComZones right after he came back to Bangui, and I quote:
14 "You know how we worked on our way to Bangui. The objective is to bring
15 back Bozizé to Bangui. I ask all ComZones to give me an overview about
16 their men, their weapons and the men who died. We are facing a big fight.
17 We will prepare this fight for our reward tomorrow. We came to liberate the
18 population and to chase out the Seleka. When the Seleka have left, the power
19 will be ours."

20 This citation is at CAR-OTP-2090-0561 at 0579, paragraph 138.

21 After this joint event, the same insider describes how Mr Mokom then toured
22 the different bases in Bangui. And in this time, when he was proximate to the
23 crimes of the Anti-Balaka in Bangui, he strove to make them more efficient,
24 more structured. He was involved in a number of activities as Operations
25 Coordinator. These included setting up military police, billeting of elements,

1 measures to enlist elements in DDR and to assist in getting Anti-Balaka
2 detainees released.

3 Mr Mokom would also check with ComZones on the situation in their
4 neighbourhoods. He would verify information on attacks and respond by
5 talking to people also by phone in this period.

6 According to P-2232, Mr Mokom would approve military activities of the
7 ComZones together with Ngaïssona in this time. And I refer you to
8 CAR-OTP-2100-2569 at 2582, paragraph 54, 66 to 71, 84 and 86 to 87.

9 P-1719 also confirms that from the province where he was after the attacks, the
10 witness, I mean, he would usually speak with Mr Mokom and speak with him
11 on Anti-Balaka activities, because he had this role. I refer you to
12 CAR-OTP-2062-0039 at 0054, paragraph 92.

13 Another witness states that Mr Mokom would ask Yagouzou to gather the
14 ComZones at Ngaïssona's house. The reference is CAR-OTP-2072-1739, at
15 1753 to 1757.

16 The descriptions of Mr Mokom's support to the Anti-Balaka as part of the
17 National Coordination in this period are represented in his communications to
18 key members of the National Coordination, which your Honours can find in
19 annex C2 to the DCC, and I specifically refer to paragraphs 19 to 20, 28 to 29 of
20 this annex.

21 His support to the organisation through the National Coordination is also
22 reflected in documents. For example, on your screens now, is a declaration
23 issued by the Anti-Balaka on 14 February 2014, and provided by a Prosecution
24 witness.

25 This declaration shows the military structure of the Anti-Balaka and

1 Mr Mokom's position in the structure as National Operations Coordinator.
2 The reference is at CAR-OTP-2025-0380 at 0385.
3 Another example is this Anti-Balaka communiqué of 16 March provided by
4 a Prosecution witness. Here, we see Mr Mokom's signature. He is signing in
5 his capacity as National Operations Coordinator. The reference is
6 CAR-OTP-2035-0061.
7 Now, Mr Mokom's contributions in this period were not reduced to supporting
8 the Anti-Balaka in Bangui; he also contributed to the ongoing activities of the
9 Anti-Balaka which resulted in ongoing crimes against Muslims in Bossangoa
10 after 5 December. Mokom had a long-standing relationship with the
11 Anti-Balaka ComZone, Kema, starting from the Zongo period onward.
12 As P-0446 explains, Mr Mokom was the Operations Coordinator, and, as such,
13 he was in continual contact with all the Anti-Balaka groups and the youth
14 which had organised themselves in self-defence groups in the provinces. I
15 refer you to CAR-OTP-2059-1626 at 1642 and the same document at 1645.
16 Mr Mokom remained in contact with Kema after Mokom had returned to
17 Bangui. Kema would come to Bangui for meetings while he was still in
18 charge of Bossangoa and overseeing the Anti-Balaka activities in Bossangoa at
19 the time.
20 Thus, after the 5 December attacks, Mr Mokom continued to support the
21 Anti-Balaka subgroups through his role in the National Coordination, working
22 towards cementing its power, while the Anti-Balaka in Bangui as well as in
23 Bossangoa displaced, deported, forcibly transferred Muslim civilians, deprived
24 them of their liberty in the enclaves and destroyed their houses and religious
25 sites.

1 Now, let me be clear: The Prosecution is not suggesting that it is a crime
2 under the Statute simply to support the military activities of an armed group,
3 but such support may lead to criminal responsibility if it contributes to the
4 commission of crimes under the Statute, and if the contributor has the required
5 intention or awareness concerning those crimes.

6 And this was the case for Mr Mokom, who knowingly and intentionally
7 contributed to the activities of the Anti-Balaka and, therefore, to the crimes.

8 Let me turn to this in detail now.

9 There are substantial grounds to believe that Mr Mokom had the requisite
10 intent and knowledge for the charged crimes under the modes of liability
11 charged; specifically, Mr Mokom had the requisite knowledge, because he was
12 aware since it was common knowledge that many Anti-Balaka fighters would
13 not distinguish between Seleka fighters and Muslim civilians.

14 He was aware, since it was common knowledge, that Anti-Balaka attacks in the
15 provinces routinely resulted in civilian casualties and destruction of property.

16 He was, therefore, aware when he made his contributions that the charged
17 crimes would occur in the ordinary course of events.

18 Given his role and the nature of his activities, Mr Mokom knew the
19 consequences of supporting the Anti-Balaka once properly mobilised and
20 given the chance to attack the Seleka in Bangui and Bossangoa. Mr Mokom
21 knew that the Anti-Balaka would also target the Muslim civilian population
22 alongside the Seleka and commit the charged crimes. He could not have
23 failed to know this given all circumstances, including the recent history, the
24 calls for revenge, the violent rhetoric and other evidence before you.

25 Nevertheless, Mr Mokom made the choice to persist in his contributions to the

1 activities of the Anti-Balaka throughout the charged period. He made this
2 choice, even after the Anti-Balaka attacks in the provinces from September to
3 December, attacks which were broadly known to have resulted in targeting of
4 civilians and civilian objects.

5 He made this choice even after the massive civilian casualties and destruction
6 of the charged 5 December attacks. He continued to make this choice during
7 and after the terrible atrocities unfolding in Yaloké, Carnot and Berberati in
8 early 2014, of which Mr Deputy Prosecutor spoke this morning.

9 He made this choice again after he had relocated to Bangui in February and
10 was surrounded by the visible effects of the Anti-Balaka's actions, including the
11 destruction of property, destruction of mosques and displacement of Muslims
12 in Bangui.

13 For the purpose of these confirmation proceedings, the Prosecution relies on
14 the following evidence to show that there are substantial grounds to believe
15 that Mr Mokom had the requisite intent and knowledge.

16 I would like to start with the witness evidence and, for this, request another
17 private session, please.

18 PRESIDING JUDGE AITALA: [15:14:45] The request is granted. Mr Court
19 Officer, kindly proceed.

20 (Private session at 3.14 p.m.)

21 THE COURT OFFICER: [15:14:53] We are in private session, Mr President.

22 (Redacted)

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Page redacted — private session

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4 (Open session at 3.18 p.m.)

5 THE COURT OFFICER: [15:18:20] We are back in open session, Mr President.

6 PRESIDING JUDGE AITALA: [15:18:35] Thank you.

7 You may proceed.

8 MS VON BRAUN: [15:18:38] P-0884 stated at trial that all Central Africans
9 were aware of the Anti-Balaka combat operations in the provinces in 2013; he
10 was aware of the attacks from the radio and by the print media. "Everyone
11 was informed," he says. "I was not the only one to be aware of that, all
12 Central Africans were aware." CAR-OTP-00001097 at pages 40 to 41.

13 And I recall Mr Mokom saying this morning as well - related to the Seleka
14 attacks - that all Central Africans were aware from the media.

15 P-2027 stated that he decided not to join the Anti-Balaka and that it was
16 foreseeable that things would end badly. I quote him, he says:

17 "God can be my witness that I foresaw everything that was happening. [...] I
18 saw the Anti-Balaka actions and told some of them to respect humanitarian law
19 because they will end up dead or in prison. I knew all along that things
20 would end badly." CAR-OTP-2078-0059, paragraphs 88 and 136.

21 Another insider witness stated:

22 "I could foresee that the conflict would be bloody and violent, the Anti-Balaka
23 were already going too far prior to December 5th." CAR-OTP-2127-4238 at
24 4270, paragraph 177.

25 Now, your Honours, the inference that Mr Mokom had the requisite

1 knowledge that the crimes as charged would occur in the ordinary course of
2 events is also supported by the fact that Anti-Balaka crimes were widely
3 reported in the media, so much so that one could not escape it.

4 On your screen, you have a selection of newspaper clippings of national and
5 international publications. These all dealt with topics, such as, for example,
6 targeting of Muslim civilians in Bossangoa and other regions in the relevant
7 time, describing the attacks, not only as attacks against the Seleka, but precisely
8 their impact on civilian lives and livelihoods.

9 The ERNs that are here seen and displayed are: CAR-OTP-2061-1427,
10 CAR-OTP-2079-0622, CAR-OTP-2074-0421, CAR-OTP-2001-4118,
11 CAR-OTP-2082-0793 and CAR-OTP-2079-1940.

12 This is how *Centrafric Matin* titled its first page on 4 December, reporting the
13 2 December horror in Boali, where 12 were killed by machete and also children
14 seriously wounded. Mr Deputy Prosecutor already referenced this incident
15 this morning.

16 The reference to this slide I would like to give quickly, 2088-2648 -- sorry for
17 that.

18 The reporting of crimes continued after the 5 December attacks. Again, the
19 reporting was clear. It was not only about attacking Seleka or skirmishes
20 between Anti-Balaka and Seleka. It was about the crimes targeting Muslim
21 civilians, illustrating the same pattern of criminality continuing throughout
22 CAR.

23 The references here are: CAR-OTP-2001-4429, CAR-OTP-2001-4446,
24 CAR-OTP-2079-1147, 2001-4330 and 2079-1166.

25 Furthermore, in this period, several UN Security Council resolutions

1 recognised not only the armed conflict itself, but its impact -- the impact of the
2 violence against civilians. The violence in CAR remained at such a level of
3 intensity throughout this period that the Security Council actually authorised
4 foreign military intervention under Chapter VII of the UN Charter.

5 The references here for these resolutions are at CAR-OTP-2001-0256, 0275,
6 CAR-OTP-2051-0665, CAR-OTP-2001 at 1043 and CAR-OTP-2091 at 0488.

7 When Mr Mokom relocated to Bangui, he was in close proximity to the crimes
8 as they were happening. Nonetheless, he met with the ComZones. He went
9 to their bases. He continued to support the groups united under the National
10 Coordination now to make the Anti-Balaka stronger and more effective, yes,
11 but he chose to proceed anyway, when a reasonable person would have
12 walked away.

13 This, your Honours, contributed to a disastrous situation for Central African
14 Muslims. His support for the group's actions left thousands of others to be
15 expelled, enclaved under dire conditions, have their property destroyed at the
16 hands of the Anti-Balaka elements while he was part of the National
17 Coordination.

18 Mr Mokom made his choice. And, your Honours, he should now be held
19 responsible for the foreseeable consequences of that choice and stand trial.

20 And with that, I end my submissions. Thank you.

21 PRESIDING JUDGE AITALA: [15:25:55] Thank you very much.

22 Now, it's 3:25, we will continue now with the submissions on the merits of the
23 Common Legal Representative of Victims.

24 You may proceed.

25 MS RABESANDRATANA: [15:26:40](Interpretation) Mr President,

1 your Honours, to begin with, allow me to salute the victims from the Central
2 African Republic -- Bangui, Bossangoa, Bossembélé, Carnot, as well as victims
3 from Chad, N'Djamena, Bossangoa, Batempelé who travel every time, and the
4 victims from Congo, Cameroon, who have come from Africa, but also from
5 France and from other parts of the world. Thanks to the social networks these
6 victims are there with us. They are listening to us and we are there for them.
7 We find ourselves here today before your Court within the framework of
8 a confirmation of charges hearing, that is, Article 61(7) of the Rome Statute.
9 The purpose is the assessment of the charges made by the Prosecutor, and
10 these charges should have substantial grounds to believe that Mr Mokom
11 actually perpetrated the crimes charged against him, and that if these charges
12 reach the sufficient threshold at this preliminary stage, then we will move on to
13 trial.
14 This preliminary decision is fundamental for the victims. They open the path
15 for them to what is possible, to know more about what happened, to know
16 about the events and to try to understand. Your decision will define the
17 demarcations of the elements, the temporal and geographical jurisdiction.
18 The submissions at this time do not have as the purpose to deal with the
19 charges as elaborated by the Prosecutor, but rather, to consider them from the
20 point of view of the victims. I will therefore look at these observations in two
21 parts:
22 One, on the stakes of the procedure for the participating victims, and the other
23 part will relate to their expectations, which means, what can this procedure
24 bring to them and what is the meaning of their participation.
25 Regarding the stakes, the first stake for the victims is to know the crimes

1 charged and that may have been committed by the accused person, which are
2 the crimes - and this is, essentially, Article 7 and 8 of the Rome Statute - and
3 they were read out and they include murder; rape, and the legal
4 representatives of the victims welcome the fact that this count or charge has
5 been integrated as a separate item on the lists of crimes; attacks against
6 buildings dedicated to religion; destruction of property; pillaging; deportation;
7 forcible transfer; severe deprivation of liberty and persecution.
8 This is important because to talk about the things that happened is to
9 acknowledge that they actually existed. It is to roll back the attitudes of denial,
10 refusal of reality. These facts are there. They exist. To talk about these
11 things, to lay out these crimes in a judicial environment, particularly when it
12 comes to the crime of rape. In any case, when we talk about this in
13 a sociocultural context, which is coercive to the victims, this is something that
14 is essential to talk about and to mention specifically.
15 In reality, it appears that this is the main reason which is always there in the
16 materials for the victims to participate. Now, even though the documents
17 containing the charges mention only two victims of rapes, the reality is
18 different. The descriptions given by victims, all of them mention that these
19 acts were perpetrated under threat, forcibly and in a coercive environment.
20 As Maître Douzima recalled this morning, it was a way of humiliating the
21 victims, to take possession of their bodies and to dominate the population
22 through coercion. These are acts that constitute attacks against -- or outrages
23 against personal dignity. Talking about these facts will roll back ignorance
24 and this is a good thing.
25 Now, talking about the second stake, it is illustrated by the victims that we are

1 representing, who all are testifying through their accounts of the particularly
2 cruel nature of the attacks that they were subjected to. They also talk about
3 their widespread and systematic nature.

4 It appears that all these people, who were individual victims, were targeted as
5 a group of people -- collectively targeted and this group was the group of
6 Muslims. For example, the attack of the town of Bangui in which 130,000
7 Muslims lived, which was equal to 18 per cent of the total population; the
8 attacks of Bossangoa, because there were two attacks there, and Bossangoa was
9 a headquarters of the Ouham prefecture, in which there were 36,000 Muslim
10 inhabitants, representing 20 per cent of the population.

11 In light of what was elaborated upon this morning, the Anti-Balaka elements
12 were systematically targeting the houses belonging to Muslims which were
13 pillaged and destroyed. The victims mention the intentional appropriation of
14 property belonging to Muslims for personal use. In fact, these Muslims lost
15 their means of subsistence which were made up of commodities -- necessary
16 commodities for daily use, and it also included their shops.

17 Now, how can someone remain without having a means of living? The choice
18 was to flee and to go elsewhere.

19 Now, there is also murder. From the accounts of the victims, it emerges that
20 the impact of murder was unspeakable. It destroys the family cell by the
21 absence of mourning, by the fact that people do not know how everything
22 happened and by the impossibility of having a place to reflect and mourn.

23 And this is very frightful, when one is aware of the importance of the family
24 unit in Africa and when one knows that trauma is generational. By
25 authorising these victims to participate, you are reassuring them of their rights

1 as acknowledged by the Rome Statute and enshrined in the Rome Statute for
2 their benefit. You are honouring them and respecting them and so they are
3 acknowledging these facts solemnly in this opening day of the procedure
4 against Mr Mokom.

5 This right must be effective and it is up to us, the legal representatives, the
6 common representatives of the victims to find the mechanisms and modalities
7 for their implementation. Over these three days of hearings, they hope that
8 they will be recognised in their roles that they deserve.

9 The third stake is as follows: This trial is also a path of memory on the road of
10 resilience, which is a formidable tool for knowledge. The ascertainment of the
11 truth through testimonies and the drafting of the charges, which include
12 locations, dates names and all the other information that the victims need to
13 know. They also need to know how, where and when their husbands, fathers
14 and children perished. These are questions that trouble them and questions
15 for which they do not have answers.

16 This trial is a formidable tool of transmission for surviving victims and their
17 families. All this makes them understand, reflect and to revisit their frightful
18 memories, which are too heavy and too traumatic to be talked about and given
19 verbal concretisation, because they have been buried for far too long. This
20 trial, it is the only communication tool of transmission which can be heard to
21 say the things that are unspeakable, to be placed in their proper context
22 through the discussions and submissions, the memorial construction or the
23 construction of the memory of what these people lived through, as well as the
24 collective history of the CAR. And there, rape is the illustration of some of
25 these things that are unspeakable.

1 This trial over time for the victims will become a framework for reference and
2 touchstones that are common and based on which they will construct their
3 future; so these are the collective and individual perspectives. This is the
4 stake of this trial for the survivors.

5 Regarding the expectations. "We cannot reconstruct without justice." These
6 are not my words. These are the words of a single victim, but it has the merit
7 of representing the thoughts of so many others.

8 We cannot rebuild our lives without justice, Mr President, your Honours,
9 please remember these few words so that those words should be at the
10 forefront of the proceedings throughout the hearings.

11 This trial over time, as I've already said, will become for the surviving victims
12 a reference framework, a common reference framework to rebuild their lives
13 and to give an account of the history to future generations.

14 The acts took place in the past, but their lives are taking place today. It was in
15 the camps and in the enclaves, so which future will they have?

16 Now, regarding the second expectation, it is to draw the lessons to the extent
17 possible to break the chain of violence and hatred as well as instability that led
18 thousands of victims to flee into exile and compel thousands of others to live in
19 deplorable conditions that are not dignified for the human being.

20 The Court has been looking at these crimes perpetrated in the CAR ever since
21 2003. It is necessary to put an end to this transgenerational trauma. It is
22 necessary to anchor in people's minds in the collective memory these events
23 that happened. But not for vengeance. Never again. It is necessary to
24 educate people for respect, dignity for everyone, and the elimination of all
25 forms of racial, ethnic and religious discriminations. Teach people culture

1 and peace, knowledge of the facts. The establishment of the historic truth will
2 make it possible for the education and the respect for the rights of the young
3 generations and orphans, those who are living in the camps and those who are
4 exiled, to have their roots. We have to give them this education. It is
5 a guarantee that it shall never happen again -- is to give them hope for another
6 better life. Hope that one can come out of problems using other means than
7 war and violence.

8 The third expectation is within this framework -- the collective framework of
9 the participation of the victims and it is related generally and individually.
10 Now, what is the meaning of this participation? These victims are very
11 numerous. Now, already at the level of the participating victims that you
12 have accepted, there are numerous. The others are not yet known; they want
13 answers to their questions, to their sufferings. And those of us, the legal
14 representatives of the victims and they, the participating victims, we are going
15 to work to be heard and that they place -- and the role of the victims to be
16 reinforced in the records, in the international records.

17 And to conclude, this place of the victims should be reinforced.

18 To conclude, this Mokom trial for the victims are a means of opening up other
19 possibilities, work for history, and give visibility to those who do not have
20 a voice. It is the fight of their lives, so that tomorrow they should be able to
21 rebuild their lives. This judicial response is expected by the victims.

22 Mr President, your Honours, please do not disappoint them. Thank you.

23 PRESIDING JUDGE AITALA: [15:47:42] Thank you very much, Madam.

24 You have done your part and your colleagues are supposed to continue
25 speaking, okay, all right, then we can --

1 MS RABESANDRATANA: [15:47:59](Interpretation) My colleagues will take
2 the floor tomorrow, Mr President.

3 (Pre-Trial Chamber confers)

4 PRESIDING JUDGE AITALA: [15:48:26] Madam, we still have time. We
5 started late today, so we will have roughly 20 minutes, if you are prepared to
6 start, then -- you are comfortable with it?

7 MR FALL: [15:48:56](Interpretation) Mr President, what we have been
8 listening to since this morning has affected what we have already disclosed
9 and, for those reasons, we would like to revise what we had presented and that
10 is why we would rather start tomorrow.

11 PRESIDING JUDGE AITALA: [15:49:16] All right, I understand. Okay, I
12 accept that. So we will adjourn the hearing for tomorrow at 9.30, and I would
13 like to thank everyone, the parties, participants, but especially our interpreters
14 and everyone who is working behind the scenes from the Registry, the
15 technical experts and everyone for allowing the hearing to take place. Thank
16 you very much, and see you tomorrow. Have a nice afternoon.

17 THE COURT USHER: [15:49:53] All rise.

18 (The hearing ends in open session at 3.49 p.m.)