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**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

**No. ICC-01/14-01/18**

**Date: 18 March 2024**

**TRIAL CHAMBER V**

**Before: Judge Bertram Schmitt, Presiding Judge  
Judge Péter Kovács  
Judge Chang-ho Chung**

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II**

**IN THE CASE OF  
*THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD  
NGAISSONA***

**Confidential**

**Decision on the Common Legal Representative of the Former Child Soldiers  
Request for Leave to Submit Evidence from the Bar Table**

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

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**Detention Section**

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**Other**

**TRIAL CHAMBER V** of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, having regard to Articles 64(2), 66(2), 67, 68(3), and 69(3) of the Rome Statute (the 'Statute') and Rules 64(2) and 91(3) of the Rules of Procedure and Evidence, issues this 'Decision on the Common Legal Representative of the Former Child Soldiers Request for Leave to Submit Evidence from the Bar Table'.

1. On 27 November 2023, the Common Legal Representative of the Former Child Soldiers (the 'CLRV1') requested the Chamber's leave to submit evidence from the bar table (the 'Request').<sup>1</sup> The items for which it seeks leave consist of (i) the '*carte de baptême*' of V45-0001 (the 'Item 1');<sup>2</sup> (ii) the '*fiche de vaccination*' of V45-0001 (the 'Item 2');<sup>3</sup> (iii) the birth certificates of V45-0001's 'parents' (the 'Item 3' and the 'Item 4');<sup>4</sup> and (iv) the '*carte de vaccination*' of V45-0002's 'mother' (the 'Item 5')<sup>5</sup> (collectively, the 'Items' and the 'Witnesses').
2. On 6 December 2023, the Office of the Prosecutor indicated that it defers to the Chamber's discretion.<sup>6</sup>
3. On 8 December 2023, the Yekatom Defence opposed the Request (the 'Response').<sup>7</sup>
4. The Chamber recalls the applicable law on the presentation of evidence by participating victims.<sup>8</sup>

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<sup>1</sup> Request of the Common Legal Representative of the Former Child Soldiers for leave to submit into evidence material from the "bar table", ICC-01/14-01/18-2222-Conf (with confidential *ex parte* Annex 1, only available to the CLRV1; confidential redacted version of Annex 1, and confidential Annexes 2-6), paras 1-2, p. 11.

<sup>2</sup> CAR-V45-00000012.

<sup>3</sup> CAR-V45-00000013.

<sup>4</sup> CAR-V45-00000014, CAR-V45-00000015.

<sup>5</sup> CAR-V45-00000016.

<sup>6</sup> Email from the Office of the Prosecutor, 6 December 2023, at 12:08.

<sup>7</sup> Defence Response to 'Request of the Common Legal Representative of the Former Child Soldiers for leave to submit into evidence material from the "bar table"', 27 November 2023, ICC-01/14-01/18-2222-Conf, ICC-01/14-01/18-2252-Conf, paras 1-2, 67.

<sup>8</sup> See Decision on the Common Legal Representatives of Victims Requests for Leave to Present Evidence and Further Order on the Remainder of the Prosecution Presentation of Evidence, 3 August 2023, ICC-01/14-01/18-2016-Conf (public redacted version notified on 6 September 2023, ICC-01/14-01/18-2016-Red), paras 9-15.

5. It further observes that the Items pertain to the 'identifying information' of the Witnesses, who testified before the Chamber.<sup>9</sup>
6. Noting that the identity of the Witnesses is materially in dispute between the participants, and having reviewed the Items, the Chamber considers that Items 1 to 4 would be of assistance in its determination of the truth, particularly, with regard to Count 29. As to the Yekatom Defence's submissions on the alleged irrelevance and/or lack of sufficient indicia of reliability and authenticity of the Items,<sup>10</sup> the Chamber will take them into account in the context of its judgment deliberations, provided that it eventually recognises them as formally submitted.
7. However, the Chamber is not persuaded that Item 5, which merely contains information on the witness's mother's yellow fever vaccination, is relevant for its assessment of the identity of V45-0002.<sup>11</sup>
8. Furthermore, the Chamber observes that Items 1 to 4 are limited in nature. It is also of the view that the potential prejudice to the rights of the accused is relatively limited.<sup>12</sup> In this regard, the Chamber notes that the Yekatom Defence will have the opportunity to present further submissions in relation to the probative value of Items 1 to 4 in the context of the CLR V1's future written application. The Yekatom Defence also remains free to determine if it considers the presentation of any additional evidence in this context necessary.
9. In light of the above, the Chamber grants the Request in relation to Items 1 to 4.
10. Consequently, the Chamber does not consider it necessary to address the remainder of the submissions concerning the timing of the Request.<sup>13</sup>
11. In order to streamline the proceedings, the Chamber instructs the CLR V1 to file its bar table motion within two weeks of notification of this decision. In addition,

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<sup>9</sup> See **V45-0001**: Transcripts of hearings, 21 September 2023, ICC-01/14-01/18-T-245-CONF-ENG; 22 September 2023, ICC-01/14-01/18-T-246-CONF-ENG; **V45-0002**: Transcripts of hearings, 26 September 2023, ICC-01/14-01/18-T-247-CONF-ENG; 27 September 2023, ICC-01/14-01/18-T-248-CONF-ENG.

<sup>10</sup> See Response, ICC-01/14-01/18-2252-Conf, paras 45-54.

<sup>11</sup> See also Response, ICC-01/14-01/18-2252-Conf, paras 55-56.

<sup>12</sup> See Response, ICC-01/14-01/18-2252-Conf, paras 59-65.

<sup>13</sup> See Request, ICC-01/14-01/18-2222-Conf, para. 16; Response, ICC-01/14-01/18-2252-Conf, paras 18-34.

the Chamber considers it appropriate that the Yekatom Defence have access to the full information concerning the chain of custody of Items 1 to 4. It therefore reclassifies confidential *ex parte* Annex 1 to the Request to *confidential*.

12. Lastly, the Chamber stresses that the present decision is without prejudice to its pending adjudication of the Yekatom Defence's request for the exclusion of evidence in relation to Count 29.<sup>14</sup>

**FOR THESE REASONS, THE CHAMBER HEREBY**


**PARTLY GRANTS** the Request in relation to Items 1 to 4;


**INSTRUCTS** the CLRV1 to file a bar table motion in relation to Items 1 to 4 within two weeks of notification of this decision;


**INSTRUCTS** the Registry to reclassify Annex 1 to the Request, ICC-01/14-01/18-2222-Conf-Exp-Anx1, from confidential *ex parte*, only available to the CLRV1, to confidential; and

**ORDERS** the CLRV1 and the Yekatom Defence to file public redacted versions of the Request, ICC-01/14-01/18-2222-Conf, and the Response, ICC-01/14-01/18-2252-Conf, respectively, within one week of notification of this decision.

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

  
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**Judge Péter Kovács**

  
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**Judge Bertram Schmitt**  
Presiding Judge

  
\_\_\_\_\_  
**Judge Chang-ho Chung**

Dated 18 March 2024

At The Hague, The Netherlands

<sup>14</sup> See Request to exclude evidence, 5 December 2023, ICC-01/14-01/18-2240-Conf (with confidential Annexes A, B and C and public Annex D).