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**International
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Court**



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Date: 30 June 2023

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-ÉDOUARD NGAÏSSONA***

Public

**Public Redacted Version of the “Common Legal Representatives’ Joint Request
for the Formal Submission of P-0925’s Additional Expert Report and Associated
Material pursuant to Rule 68(3) of the Rules of Procedure and Evidence”
(ICC-01/14-01/18-1848-Conf, dated 26 April 2023)**

Source: Common Legal Representatives of Victims

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

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I. INTRODUCTION

1. The Common Legal Representative of the Victims Former Child Soldiers (the “CLRV1”) and the Common Legal Representatives of the Victims of Other Crimes (the “CLRV2”, together the “CLRV”) respectfully request the formal submission of P-0925’s additional expert report (the “Additional Report”)¹ and of the letters of instructions (the “Associated Material”)², pursuant to rule 68(3) of the Rules of Procedure and Evidence (the “Rules”) and the “Initial Directions on the Conduct of the Proceedings” (the “Initial Directions”).³

2. The CLRV submit that the Additional Report can be introduced under rule 68(3) of the Rules for the following reasons. *First*, the Additional Report was drafted by P-0925, an expert possessing sufficient qualifications in his area of expertise, and its content falls within his field of expertise. *Second*, the Additional Report meets the minimum standards of relevance, reliability, and probative value. *Third*, several factors militate in favour of the introduction of the Report pursuant to rule 68(3) of the Rules. *Fourth*, the Additional Report meets the criteria set out in rule 68(3) of the Rules.

II. PROCEDURAL BACKGROUND

3. On 9 July 2020, during the first status conference, Trial Chamber V (the “Chamber”) issued a direction for the Parties and Participants to seek agreement concerning prospective expert evidence in order to streamline the presentation of said evidence.⁴ During the same status conference, the CLRV2 expressed their willingness to call jointly with the Prosecution the expert on trauma.⁵

¹ See CAR-V44-00000001 and CAR-V4500000001.

² See CAR-V44-00000002 and CAR-V4500000002.

³ See the “Initial Directions on the Conduct of the Proceedings” (Trial Chamber V), No. [ICC-01/14-01/18-631](#), 26 August 2020, paras. 58 and 67 (the “Initial Directions”).

⁴ See the transcript of the hearing held on 9 July 2020, No. [ICC-01/14-01/18-T-012-ENG ET WT](#), pp. 42-49.

⁵ *Idem*, p. 48.

4. On 16 July 2020, the Chamber issued the “Decision Setting the Commencement Date of the Trial” and reiterated its strong encouragement for the parties “to reach agreement at least on a number of experts”.⁶

5. On 26 August 2020, the Chamber issued the Initial Directions.⁷

6. On 9 November 2020, the Prosecution filed the “Joint Submission on Experts” indicating, *inter alia*, that the CLRV agreed to jointly retain the proposed expert on trauma and their intention to provide him directly with additional instructions.⁸

7. On 19 January 2021, the Prosecution requested, *inter alia*, the formal submission of the expert report and associated materials of P-0925 (the “Prosecution formal submission of P-0925’s First Report”).⁹

8. On 1 February 2021, the CLRV provided further information on the relevance and importance of P-0925’s expertise to the interests of the victims in the present case and informed the Chamber and the Parties of its contacts with P-0925 with the view of providing him with additional instructions and obtaining an addendum to his expert report prepared for the Prosecution (the “CRLV Response”).¹⁰

9. On 10 March 2021, the Chamber ruled that P-0925’s expert report (CAR-OTP-2127-6805) (the “First Report”) and its associated documents (CAR-OTP-2122-8997;

⁶ See the “Decision Setting the Commencement Date of the Trial” (Trial Chamber V), No. [ICC-01/14-01/18-589](#), 16 July 2020, para. 17.

⁷ See the Initial Directions, *supra* note 3.

⁸ See the “Joint Submission on Experts”, No. [ICC-01/14-01/18-719-Conf](#), 9 November 2020, para. 7-8. A public redacted version was filed on 18 January 2021 as No. [ICC-01/14-01/18-719-Red](#).

⁹ See the “Prosecution’s Request for the Formal Submission of the Expert Reports and Associated Materials of P-0925, P-2193, P-2926, and P-2927 pursuant to rule 68(3) and article 69(4)”, No. [ICC-01/14-01/18-834-Conf](#), 19 January 2021. A public redacted version was filed on 25 January 2021 as No. [ICC-01/14-01/18-834-Red](#) (the “Prosecution’s formal submission of P-0925’s First Report”).

¹⁰ See the “Common Legal Representatives’ Joint Response to the “Prosecution’s Request for the Formal Submission of the Expert Reports and Associated Materials of P-0925, P-2193, P-2926, and P-2927 pursuant to rule 68(3) and article 69(4)”, No. [ICC-01/14-01/18-860-Conf](#), 1 February 2021, para. 13. A public redacted version was filed on 16 March 2021 as No. [ICC-01/14-01/18-860-Red](#) (the “CRLV Response”).

CAR-OTP-2122-9975) could be introduced into evidence, subject to the fulfilment of the legal requirements of rule 68(3) of the Rules (the “Decision introducing P-0925’s First Report”).¹¹

10. On 30 March 2023, P-0925 provided the Additional Report to the CLRV.

11. On 12 April 2023, the CLRV informed the Chamber and the Parties that they would be in a position to disclose the Additional Report by 24 April 2023.¹²

12. On 17 April 2023, the CLRV provided a courtesy copy of the Additional Report to the Parties.¹³

13. On 25 April 2023, the CLRV formally disclosed the Additional Report and Associated Material.¹⁴

III. CONFIDENTIALITY

14. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the present submissions are filed confidential as they contain confidential information regarding P-0925. A public redacted version will be filed in due course.

¹¹ See the “Decision on the Prosecution Requests for Formal Submission of Prior Recorded Testimonies under Rule 68(3) of the Rules concerning Witnesses P-1962, P-0925, P-2193, P-2926, P-2927, P-1577 and P-0287, and the Ngaïssona Defence Motion to Limit the Scope of P-2926’s Evidence” (Trial Chamber V), No. [ICC-01/14-01/18-907-Conf](#), 10 March 2021, paras. 32-36. A public redacted version was filed on 1 April 2021 as No. [ICC-01/14-01/18-907-Red](#) (the “Decision introducing P-0925’s First Report”).

¹² See the Email correspondence from the CLRV dated 12 April 2023 at 17:06.

¹³ See the Email correspondence from the CLRV dated 17 April 2023 at 15:09.

¹⁴ See the “Common Legal Representatives of Victims Communication of the Disclosure of Evidence on 25 April 2023”, No. [ICC-01/14-01/18-1847](#), 25 April 2023.

IV. SUBMISSIONS

A. Applicable Law

15. The CLRV incorporate by reference their submissions included in their Response.¹⁵ The CLRV further refer to the Chamber's determination in the Decision introducing P-0925's First Report, detailing the applicable law for the introduction of expert reports pursuant to rule 68(3) of the Rules.¹⁶

B. The Additional Report can be introduced under rule 68(3) of the Rules

16. As detailed *infra*, the CLRV submit that the Additional Report can be introduced under rule 68(3) of the Rules for the following reasons. *First*, the Additional Report was drafted by P-0925, an expert possessing sufficient qualifications in his area of expertise, and its content falls within his field of expertise. *Second*, the Additional Report meets the minimum standards of relevance, reliability, and probative value. *Third*, several factors militate in favour of its introduction pursuant to rule 68(3) of the Rules. *Fourth*, the Additional Report meets the criteria set out in rule 68(3) of the Rules.

1. P-0925 is a qualified expert and the content of the Additional Report falls squarely within his area of expertise

17. As underlined in the Prosecution's formal submission of P-0925's First Report,¹⁷ which was supported by the CLRV,¹⁸ P-0925 has extensive skills, training and experience on cross-cultural trauma psychiatry and conflict-related trauma, including on the "*intergenerational transmission of trauma and the long-term psychological and physical impact on victims of child soldiering, forcible displacement, and sexual violence*".¹⁹

¹⁵ See the CLRV Response, *supra* note 10.

¹⁶ See the Decision introducing P-0925's First Report, *supra* note 11, paras. 8-16.

¹⁷ See the Prosecution's formal submission of P-0925's First Report, *supra* note 9, paras. 7-12.

¹⁸ See the CLRV Response, *supra* note 10.

¹⁹ See the Prosecution's formal submission of P-0925's First Report, *supra* note 9, para. 7.

18. P-0925 has published and lectured extensively on the subject.²⁰ His work experiences and responsibilities, as seen in his *curriculum vitae*,²¹ abundantly demonstrates his qualifications. Furthermore, P-0925 [REDACTED], and has already [REDACTED].²²

19. The content of the Additional Report, dealing specifically with the trauma associated with sexual and gender-based crimes (“SGBC”), forced removal, displacement, deportation, and child soldiering, and the types of harm suffered by the victims and the impact of the alleged crimes on the victims, falls squarely within P-0925’s area of expertise.

2. The Additional Report meets the minimum standards of relevance, reliability, and probative value

20. The Additional Report is highly relevant to assess and fully understand the extent of the harms suffered by the victims participating in this case. In particular, the Report details, *inter alia*, (i) the impact and outcomes of SGBC on the functioning of victims, including the psychological outcomes;²³ (ii) the consequences of forced removal, displacement, and deportation;²⁴ and (iii) the numerous and diverse consequences and impact of trauma on child development for child soldiers, including on their reintegration in the community, the physical impacts, and the long-term effects of child soldiering.²⁵ The Additional Report also includes relevant material on how the harms suffered by victims can be addressed.²⁶ As such, it is extremely relevant

²⁰ *Idem*, para. 8.

²¹ See P-0925’s *curriculum vitae* at CAR-OTP-2122-9975.

²² See the Prosecution’s formal submission of P-0925’s First Report, *supra* note 9, paras. 11-12.

²³ See the Additional Report, *supra* note 1, pp. 13-25.

²⁴ *Idem*, pp. 26-33.

²⁵ *Idem*, pp. 34-54.

²⁶ *Idem*, pp. 59-64.

and at the core of the interests of victims participating in this case, and is representative of the harm they suffered from.

21. The Additional Report has probative value. It is based on the expert's review of relevant evidence in the case, along with a comprehensive comparative analysis of the literature on the psychosocial impacts of trauma deriving from the exposure to extreme violent events on individuals, their families, and communities,²⁷ and of the verbatim accounts of several victims participating in the case as contained in their application forms.²⁸ Therefore, the CLRV submit that the Additional Report's findings will provide valuable information on the mental health outcomes of conflict-related trauma, which will help the Chamber appreciate the extent of the trauma and harms experienced by the victims participating in the case.

22. Finally, the Additional Report has sufficient reliability. The methodology used is detailed,²⁹ the sources used are all identified,³⁰ and its content falls entirely within P-0925's area of expertise.

3. Factors militating in favour of the introduction of the Additional Report pursuant to rule 68(3) of the Rules

23. In the Decision introducing P-0925's First Report, the Chamber recalled its discretion in allowing for the introduction of prior recorded testimonies and the need for a case-by-case assessment.³¹ In this regard, the Chamber indicated several factors which may guide its decision, such as whether the evidence relates to issues that are not materially in dispute, whether the evidence is not central to core issues in the case or whether it is corroborative of other evidence.³² Expeditiousness is considered as an

²⁷ *Idem*, p. 9.

²⁸ *Idem*, p. 8.

²⁹ *Idem*, pp. 11-12.

³⁰ *Idem*, pp. 81-92.

³¹ See the Decision introducing P-0925's First Report, *supra* note 11, para. 14.

³² *Ibid.*

additional relevant factor for the application of the rule.³³ The Chamber further found that it has greater discretion in applying rule 68(3) of the Rules, as this provision “typically carries a lower risk of interference with the fair trial rights of the accused than Rule 68(2)(b) of the Rules, given that the witness appears before the Chamber and is available for examination, including by the accused”.³⁴

24. As already found by the Chamber concerning the First Report, the CLRV submit that P-0925’s testimony, while being crucial to the interests of the victims participating in this case and to the determination of the truth, does not go to core issues in the case.³⁵ Additionally, the Additional Report does not go to questions related to the guilt or innocence of the Accused, and remains within the ambit of issues and evidence directly relevant to the personal interests of the victims participating in this case.

25. Moreover, the introduction of the Additional Report pursuant to rule 68(3) of the Rules would promote the expeditiousness of the proceedings, as it would substantially reduce the time for the CLRV’s examination of the witness.

26. The fact that the First Report was already introduced pursuant to rule 68(3) of the Rules further militate in favour of the introduction of the Additional Report. Indeed, the Additional Report was prepared by the expert “as an extension of the report previously provided to the Prosecution for the criminal case”.³⁶

³³ *Idem*, para. 15.

³⁴ *Idem*, para. 14 (notes omitted).

³⁵ *Idem*, para. 34.

³⁶ See the Additional Report *supra* note 1, pp. 7-8.

4. The Additional Report meets the criteria set out in rule 68(3) of the Rules

27. Finally, and as required under rule 68(3) of the Rules, the CLRV submit that P-0925 will agree to the submission of his Additional Report, will be present in court, and will be available for questioning by the Chamber, Parties and Participants. Therefore, the formal submission of the Additional Report will not be prejudicial or inconsistent with the rights of the Accused, given that both Defence teams will have the opportunity to examine the expert.

V. CONCLUSION

28. For the foregoing reasons, the CLRV respectfully request the Chamber to deem formally submitted the Additional Report and the Associated Material, subject to the fulfilment of the further conditions of rule 68(3) of the Rules.



Dmytro Suprun

Common Legal Representative
Victims Former Child Soldiers



Paolina Massidda

For the team of the Common
Legal Representatives
Victims of Other Crimes

Dated this 30th day of June 2023

At The Hague (The Netherlands)