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**No. ICC-01/14-01/18
Date: 18 October 2022**

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

IN THE CASE OF

THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-EDOUARD NGAÏSSONA

Public redacted version of

**Decision on the Yekatom Defence Request to Amend Mr Yekatom's Contact
Restrictions based on a Proposed Agreement with the Prosecution**

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

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Judge Bertram Schmitt, acting as Single Judge on behalf of Trial Chamber V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaiissona*, having regard to Articles 64(2) and 68(1) of the Rome Statute, Regulations 99-101 of the Regulations of the Court, and Regulations 168-169, 173-175, and 187 of the Regulations of the Registry, issues this ‘Decision on the Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution’.

1. On 1 July 2020, the Chief Custody Officer of the Detention Section notified Mr Yekatom that he had removed [REDACTED] (the ‘Interlocutor’), from Mr Yekatom’s non-privileged contact list following an incident that occurred on 29 June 2020.¹
2. On 15 June 2022, the Chamber rejected a request by the Yekatom Defence (the ‘Defence’) to re-add the Interlocutor onto Mr Yekatom’s non-privileged contact list, ‘without prejudice to a renewed request should circumstances change in the future’.²
3. On 23 September 2022, the Defence presented, by way of email, a proposed agreement between the Defence and the Office of the Prosecutor (the ‘Prosecution’) to the Chamber concerning the current communication restrictions of Mr Yekatom with the Interlocutor.³
4. On 26 September 2022, the Chamber ordered the Defence to file this proposed agreement on the record and instructed the Registry to provide its observations within one week of notification of this Defence request.⁴
5. On 27 September 2022, the Defence filed its ‘Request to amend the current contact restrictions of Mr Yekatom based on a Proposed agreement between the Prosecution and

¹ First Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V, ICC-01/14-01/18-592-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence and the Registry (with one confidential *ex parte* annex, only available to the Yekatom Defence and the Registry) (confidential redacted version notified the same day, ICC-01/14-01/18-592-Conf-Red), paras 15-16.

² Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List, ICC-01/14-01/18-1460-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Prosecution and the Registry (with confidential redacted version and public redacted version notified the same day, ICC-01/14-01/18-1460-Red and ICC-01/14-01/18-1460-Red2, respectively), para. 7.

³ Email from the Defence to the Chamber and the Prosecution, 23 September 2022, at 18:36.

⁴ Email from the Chamber to the Defence, the Prosecution, the Detention Section and the Registry, 26 September 2022, at 11:06.

the Yekatom Defence’ (the ‘Request’ and ‘Proposed Agreement’). It requests the Chamber to (i) order the Registry to add the Interlocutor to Mr Yekatom’s list of non-privileged contacts, ‘on a provisional basis, and subject to certain conditions as discussed with the Prosecution’, and (ii) grant Mr Yekatom actively monitored calls with the Interlocutor once a month for a duration of 30 minutes, or twice a month for a duration of 15 minutes.⁵ The Prosecution gave its consent to the Proposed Agreement, under the conditions that (i) ‘if the Registry were to report a contact restriction violation at any point and regarding anyone or any circumstance, the Prosecution will withdraw their consent to the agreement’; and (ii) ‘in such circumstances, the Prosecution reserves the right to request appropriate modifications to the terms and conditions of Mr Yekatom’s detention, including the suspension of contact with [the Interlocutor]’.⁶

6. On 4 October 2022, as instructed by the Chamber,⁷ the Registry submitted its observations on the Request (the ‘Registry Observations’).⁸
7. The Single Judge notes that under the Proposed Agreement the telephone calls between Mr Yekatom and the Interlocutor will be actively monitored by the Registry. In addition, the Single Judge notes that the Prosecution consented to the Proposed Agreement, which is moreover intended to be provisional and will be revisited by the two parties after one year and/or once most of the Prosecution witnesses will have testified.⁹
8. The Single Judge further observes that the Registry confirmed that it can accommodate the Defence’s Request for ‘30 minutes of an active monitored telephone call per month with the Interlocutor’¹⁰ if the Detention Section is informed two weeks prior to the day

⁵ Request, ICC-01/14-01/18-1587-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Prosecution and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1587-Red), paras 2, 12.

⁶ Request, ICC-01/14-01/18-1587-Red, para. 14.

⁷ Email from the Chamber to the Defence, the Prosecution, the Detention Section and the Registry, 26 September 2022, at 11:06.

⁸ Registry Observations on the “Request to amend the current contact restrictions of Mr. Yekatom based on a Proposed agreement between the Prosecution and the Yekatom Defence”, (ICC-01/14-01/18-1587-Conf-Exp), ICC-01/14-01/18-1596-Conf-Exp, confidential *ex parte*, only available to the Prosecution, Yekatom Defence and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1596-Red).

⁹ Request, ICC-01/14-01/18-1587-Red, paras 13-15.

¹⁰ The Chamber understands that the option of a monthly telephone call of 30 minutes is the Registry’s preference.

proposed for an actively monitored telephone call,¹¹ and takes note of the Defence's agreement to give notice.¹²

9. In light of the above circumstances and precautionary measures, the Single Judge considers that the Interlocutor can be re-added to Mr Yekatom's non-privileged contact list without jeopardizing witnesses' security and the integrity of the proceedings. This is without prejudice to the Interlocutor being removed again, if violations to the current contact restrictions are reported by the Detention Section.
10. Lastly, and as requested by the Registry,¹³ the Single Judge confirms that the actively monitored monthly 30 minutes telephone call shall be scheduled within the existing non-privileged telephone schedule of Mr Yekatom, and within the existing 180 weekly minutes ordered for Mr Yekatom's non-privileged telephone calls.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Request;

ORDERS the Registry to re-add the Interlocutor to the list of non-privileged contacts of Mr Yekatom and to facilitate 30 minutes of an active monitored telephone call per month with the Interlocutor;

INSTRUCTS the Defence and Mr Yekatom to inform the Detention Centre of planned calls with the Interlocutor, as set out above in paragraph 8; and

ORDERS the Prosecution, the Defence and the Registry to identify suitable redactions to the *ex parte* emails cited in footnotes 3 and 4 of this decision, with the aim of including them in the Registry's periodic reports on email decisions.

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

¹¹ Registry Observations, ICC-01/14-01/18-1596-Red, paras 10-11.

¹² Request, ICC-01/14-01/18-1587-Red, para. 13.

¹³ Registry Observations, ICC-01/14-01/18-1596-Red, para. 10.



Judge Bertram Schmitt

Single Judge

Dated 18 October 2022

At The Hague, The Netherlands