

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

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No.: ICC-01/14-01/18  
Date: 24 January 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-EDOUARD  
NGAISSONA**

**PUBLIC**

**Public Redacted Version of “Registry Observations on the “Second Request to amend the current contact restrictions of Mr. Yekatom with [REDACTED]”, 17 January 2023, ICC-01/14-01/18-1725-Conf-Exp”, filed on 24 January 2023**

**Source:** Registry

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

**The Office of the Prosecutor**

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**Unrepresented Victims**

**Legal Representatives of the Applicants**

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(Participation/Reparation)**

**The Office of the Public Counsel for  
Victims**

**The Office of the Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

Mr Harry Tjonk

**Victims Participation and Reparations  
Section**

## I. Introduction

1. As ordered by Trial Chamber V (“Chamber”) on 18 January 2023,<sup>1</sup> the Registry hereby submits its observations on the “Second Request to amend the current contact restrictions of Mr. Yekatom with [REDACTED]”<sup>2</sup> (“Defence’s Request”) submitted by the Defence for Mr Alfred Yekatom (respectively “Defence” and “Mr Yekatom”) on 17 January 2023.

## II. Procedural history

2. On 17 July 2020, the Registry submitted its “First Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V” where it was reported that the [REDACTED] (“Interlocutor”), was removed by the Chief Custody Officer of the Detention Section (respectively “CCO” and “DS”) from Mr Yekatom’s non-privileged contact list following an incident.<sup>3</sup>
3. On 15 June 2022, the Chamber issued its “Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List” and rejected the Defence’s request<sup>4</sup> to add the Interlocutor back onto Mr Yekatom’s non-privileged contact list.<sup>5</sup>
4. On 27 September 2022, the Defence submitted its “Request to amend the current contact restrictions of Mr. Yekatom based on a Proposed agreement between

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<sup>1</sup> Email from Trial Chamber V to the Registry, the Defence for Mr Yekatom, the Defence for Mr Ngaissona, the Office of the Prosecutor, the Legal Representatives of the Victims sent on 18 January 2023 at 15:50.

<sup>2</sup> Defence for Mr Yekatom, “Second Request to amend the current contact restrictions of Mr. Yekatom with [REDACTED]” (“Defence’s Request”), 17 January 2023, ICC-01/14-01/18-1725-Conf-Exp.

<sup>3</sup> Registry, “First Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V”, 17 July 2020, ICC-01/14-01/18-592-Conf-Exp, paras. 15-16.

<sup>4</sup> Defence for Mr Yekatom, “Yekatom Defence Response to the “Fifth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V”, 6 April 2022, ICC-01/14-01/18-1348-Conf-Exp”, 19 April 2022, ICC-01/14-01/18-1366-Conf-Exp, paras. 17-21.

<sup>5</sup> Trial Chamber V, “Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List” (“15 June 2022 Decision”), 15 June 2022, ICC-01/14-01/18-1460-Conf-Exp, para. 6.

the Prosecution and the Yekatom Defence”<sup>6</sup> and requested the Chamber 1) to grant to Mr Yekatom actively monitored non-privileged calls with the Interlocutor once a month for a duration of 30 minutes, or twice a month for a duration of 15 minutes, and 2) to order the Registry to add the Interlocutor to Mr Yekatom’s list of non-privileged contact, on a provisional basis, and subject to certain conditions as discussed with the Prosecution.<sup>7</sup>

5. On 4 October 2022, the Registry submitted its “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)”<sup>8</sup> in which the Registry indicated that “it would be able to accommodate [...] 30 minutes of an active monitored telephone call per month with the Interlocutor, and [...] within the existing 180 minutes ordered for Mr Yekatom’s weekly non-privileged telephone calls”.<sup>9</sup>
6. On 18 October 2022, the Chamber issued its “Decision on the Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution”<sup>10</sup> ordering the Registry to 1) reinstate the Interlocutor to the non-privileged contact list of Mr Yekatom, and 2) facilitate 30 minutes of an active monitoring telephone calls per month with the Interlocutor.<sup>11</sup> The Chamber also instructed the Defence to inform the Detention

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<sup>6</sup> Defence for Mr Yekatom, “Request to amend the current contact restrictions of Mr. Yekatom based on a Proposed agreement between the Prosecution and the Yekatom Defence”, 27 September 2022, ICC-01/14-01/18-1587-Conf-Exp.

<sup>7</sup> *Ibid.*, para. 12.

<sup>8</sup> Registry, “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)”, 4 October 2022, ICC-01/14-01/18-1596-Conf-Exp.

<sup>9</sup> *Ibid.*, para. 10.

<sup>10</sup> Trial Chamber V, “Decision on the Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution”, 18 October 2022, ICC-01/14-01/18-1622-Conf-Exp.

<sup>11</sup> *Ibid.*, paras. 9-10.

Center of the date of the proposed telephone call with the Interlocutor two weeks in advance.<sup>12</sup>

7. On 17 January 2023, the Defence submitted its Defence's Request requesting the Chamber to increase the frequency of the non-privileged telephone calls between Mr Yekatom and his Interlocutor once every two weeks for a total duration of 30 minutes and within the 180 minutes of non-privileged telephone calls a week.<sup>13</sup>

### III. Classification

8. In accordance with regulation 23 *bis*(2) of the Regulations of the Court, the present submission is classified as confidential *ex parte* only available to the Prosecution, Defence and Registry as it follows submissions with the same designation, and further, as it contains third-party and personal information pertaining to Mr Yekatom's private life. A public redacted version will be filed simultaneously.

### IV. Submissions

9. Based on a second proposed agreement with the Prosecution, the Defence has requested the Chamber to allow the Interlocutor to have one actively monitored telephone call every two weeks with Mr Yekatom, for a total duration of 30 minutes.<sup>14</sup> Secondly, the Defence proposed to notify the Registry two weeks in advance of the proposed telephone calls,<sup>15</sup> in order to ensure the active monitoring of the particular call with a Sango interpreter.
10. Mr Yekatom is *inter alia* authorized to make non-privileged telephone calls twice a week, for a total of 180 minutes per week, to authorized family members

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<sup>12</sup> *Ibid.*, para. 8.

<sup>13</sup> Defence for Mr Yekatom, Defence's Request, paras. 9-11.

<sup>14</sup> *Ibid.*, paras. 9-11.

<sup>15</sup> *Ibid.*

and other authorized individuals.<sup>16</sup> All non-privileged telephone calls are subjected to random active monitoring, with increased monitoring for some contacts<sup>17</sup> and all telephone calls with the Interlocutor are to be actively monitored.<sup>18</sup> In implementing the restrictions on contact, the Registry actively monitors Mr Yekatom's telephone calls at random, as frequently as possible and actively monitors with the presence of an interpreter each telephone calls with the Interlocutor.

11. The Registry has carefully programmed Mr Yekatom weekly non-privileged telephone call schedule based on, *inter alia*, availability and staff resources constraints, hearings' schedules, availability of interpreters, active monitoring schedules for other detained persons at the Detention Centre ("DC"), daily activities at the DC, and coordination with the Defence and Mr Yekatom.<sup>19</sup>

*Registry observations on the modalities of active monitoring telephone calls with the Interlocutor*

12. The Registry confirms to the Chamber that it would be able to accommodate the Defence's Request for one actively monitored telephone call every two weeks for a total duration of 30 minutes per month with the Interlocutor, within

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<sup>16</sup> Trial Chamber V, "Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention" ("17 April 2020 Decision"), 17 April 2020, ICC-01/14-01/18-485-Conf, paras. 13, 30; Trial Chamber V, "Second Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention", 21 August 2020, ICC-01/14-01/18-627, paras. 18-19, 24; Trial Chamber V, "Third Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention" ("11 November 2020 Decision"), 11 November 2020, ICC-01/14-01/18-727-Conf paras. 18, 22, 24, 26; Trial Chamber V, "Fourth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention", 27 May 2021, ICC-01/14-01/18-1008-Conf, paras. 13, 19, 21-25; Trial Chamber V, "Fifth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention", 27 October 2021, ICC-01/14-01/18-1148-Conf, para. 11; Trial Chamber V, "Decision on Mr Yekatom's Request to Add an Individual to his Non-Privileged Contact List" ("15 June 2022 Decision"), 15 June 2022, ICC-01/14-01/18-1460-Conf-Exp; Trial Chamber V, "Seventh Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention", 29 September 2022, ICC-01/14-01/18-1590-Conf-Exp.

<sup>17</sup> Trial Chamber V, 17 April 2020 Decision, para.13 (ii), (iii).

<sup>18</sup> Trial Chamber V, 18 October 2022 Decision, para. 8.

<sup>19</sup> Registry, "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)", 4 October 2022, ICC-01/14-01/18-1596-Conf-Exp, para. 11.

the existing non-privileged telephone schedule, and within the existing 180 minutes ordered for Mr Yekatom's weekly non-privileged telephone calls.

13. In addition, the Registry observes that it would have the capacity to monitor the telephone call for the duration of the already scheduled non-privileged telephone call block.<sup>20</sup> Indeed the calculating of minutes once a call has already started in an actively monitored time block, including consideration for calls drops, start times and bad connections, adds another layer of complexity to the process.
14. Finally, the Registry makes a general observation that a straightforward and predictable active monitoring regime provides the least margin of error and best use of resources. Each time that a new exception is added to the active monitoring regime it adds a new layer of complexity for staff implementing and coordinating on monitoring, such as more frequent monitoring for certain contacts, 100% monitoring for other contacts, and random active monitoring for the rest, and mixed regimes for monitoring of visits. Implementing active monitoring for each detained person requires resources in planning, coordinating, and accommodating changing schedules between the Language Services Section, DS, the Defence, the Interlocutor and Mr Yekatom.



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Marc Dubuisson, Director Division of Judicial Services  
on behalf of Peter Lewis, Registrar

Dated this 24 January 2023

At The Hague, the Netherlands

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<sup>20</sup> Registry, "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)", 4 October 2022, ICC-01/14-01/18-1596-Conf-Exp, paras. 11-12.