

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

**Original: English**

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

**Date: 08 February 2023**

**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  
NGAISSONA***

**Public Redacted Version of**

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

1. The Chamber recalls the procedural history as set out in its ‘Decision on the Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution’ (the ‘First Decision’).<sup>1</sup> Therein the Chamber granted the request by the Yekatom Defence (the ‘Defence’) to amend the contact restrictions of Mr Yekatom based on a proposed agreement with the Office of the Prosecutor (the ‘Prosecution’).<sup>2</sup> It ordered the Registry to re-add [REDACTED] (the ‘Interlocutor’) to the list of non-privileged contacts of Mr Yekatom and to facilitate 30 minutes of an actively monitored telephone call per month with the Interlocutor.
2. On 17 January 2023, the Defence filed its ‘Second Request to amend the current contact restrictions of Mr. Yekatom with [the Interlocutor]’ (the ‘Request’).<sup>3</sup> It requests the Chamber to amend the current contract restrictions based on a proposed agreement between the Defence and the Prosecution (the ‘Amended Proposed Agreement’).<sup>4</sup> In particular, it requests that Mr Yekatom and the

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<sup>1</sup> First Decision, ICC-01/14-01/18-1622-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Prosecution and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1622-Red), paras 8-10.

<sup>2</sup> 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, 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).

<sup>3</sup> Request, ICC-01/14-01/18-1725-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Prosecution and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1725-Red).

<sup>4</sup> The Defence states that it contacted the Prosecution by email, and that the Prosecution informed it orally that ‘they would not object to the increase of calls between Mr. Yekatom and [the Interlocutor] to one call every two weeks, under the same conditions set out in the First Decision’; *see* Second Request, ICC-01/14-01/18-1725-Red, paras 4-5.

Interlocutor are allowed ‘to call each other once every two weeks’, with the conditions set out in the First Decision remaining in effect.<sup>5</sup>

3. On 24 January 2023, as instructed by the Chamber,<sup>6</sup> the Registry submitted its observations on the Second Request.<sup>7</sup> It indicated that it can 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 the existing non-privileged telephone schedule, and within the existing 180 minutes ordered for Mr Yekatom’s weekly non-privileged telephone calls’.<sup>8</sup> Upon further inquiry, the Registry confirmed to the Chamber that it can also accommodate, as requested by the Defence, ‘2 calls of 30 minutes each’ per month, for a total duration of one hour per month.<sup>9</sup>
4. The Single Judge notes that the Prosecution did not object to the Amended Proposed Agreement. Furthermore, the Single Judge observes that so far no violations of the current contact restrictions in relation to the Interlocutor have been reported by the Registry, and recalls that the parties had previously agreed to revisit the matter ‘after one year and/or once most of the Prosecution witnesses will have testified’.<sup>10</sup>
5. Moreover, the Single Judge takes note of the Registry’s confirmation that it can accommodate the Amended Proposed Agreement. He further notes that the conditions set out in the First Decision will remain in place, which include the active monitoring of the calls between Mr Yekatom and the Interlocutor, and that the Defence will continue to inform the Detention Section of the calls two weeks in advance.<sup>11</sup>

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<sup>5</sup> Request, ICC-01/14-01/18-1725-Red, paras 10-11.

<sup>6</sup> Email from the Chamber, 18 January 2023, at 15:50.

<sup>7</sup> Registry Observations on the “Second Request to amend the current contact restrictions of Mr. Yekatom with [the Interlocutor]”, (ICC-01/14-01/18-1725-Conf-Exp), ICC-01/14-01/18-1731-Conf-Exp, confidential *ex parte*, only available to the Prosecution, Yekatom Defence and the Registry (public redacted version notified the same day, ICC-01/14-01/18-1731-Red).

<sup>8</sup> Registry Observations, ICC-01/14-01/18-1731-Red, para. 12.

<sup>9</sup> Email from the Detention Centre to the Chamber’s Legal Officer, 25 January 2023, at 13:51.

<sup>10</sup> First Decision, ICC-01/14-01/18-1622-Red, para. 7.

<sup>11</sup> First Decision, ICC-01/14-01/18-1622-Red, para. 8.

6. In light of the above circumstances and precautionary measures, the Single Judge confirms that the actively monitored phone calls of 30 minutes (once every two weeks, for a total duration of one hour per month) shall be scheduled within the existing non-privileged telephone schedule of Mr Yekatom, and within the existing 180 minutes weekly ordered for Mr Yekatom's non-privileged telephone calls.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**GRANTS** the Request;

**ORDERS** the Registry to facilitate 30 minutes of an actively monitored telephone call once every two weeks, for a total duration of one hour per month, with the Interlocutor; and

**INSTRUCTS** the Defence and Mr Yekatom to continue informing the Detention Centre of planned calls with the Interlocutor, as set out in paragraph 8 of the First Decision.

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



**Judge Bertram Schmitt**

**Single Judge**

Dated 08 February 2023

At The Hague, The Netherlands