

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/18
Date: 31 October 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

**With Confidential *EX PARTE* Annexes I-II only available to the Yekatom Defence
and the Registry**

**Public redacted version of "Eighth Registry Report on the Implementation of the
Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V", 14
August 2023, ICC-01/14-01/18-2027-Conf-Red**

Source: Registry

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

The Office of the Prosecutor

Mr Karim A. A. Khan
Mr Mame Mandiaye Niang
Mr Kweku Vanderpuye

Counsel for Mr Yekatom

Ms Mylène Dimitri
Mr Thomas Hannis
Ms Anta Guissé

Legal Representatives of the Victims

Mr Dmytro Suprun
Mr Abdou Dangabo Moussa
Ms Elisabeth Rabesandratana
Mr Yaré Fall
Ms Marie-Edith Douzima-Lawson
Ms Paolina Massidda

Counsel for Mr Ngaïssona

Mr Geert-Jan Alexander Knoops
Mr Richard Omissé-Namkeamaï
Ms Marie-Hélène Proulx

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Mr Harry Tjonk

**Victims Participation and Reparations
Section**

I. Introduction

1. Following the “Third Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention”¹ issued by Trial Chamber V (“Chamber”) on 11 November 2020, whereby the Registry is ordered to report on the implementation of the restrictions on contact for Mr Alfred Yekatom (“Mr Yekatom”) every six months, the Registry hereby submits its report on the monitoring of Mr Yekatom’s non-privileged telephone calls, visits and written correspondence since 13 February 2023.² The Registry informs as follows: i) two non-privileged telephone calls for which the Registry warned Mr Yekatom that he desist from making derogatory comments or threatening remarks against the ICC staff in charge of monitoring his non-privileged conversations; and ii) two non-privileged telephone conversations during which reference was made, as the Registry understands it, to Mr Yekatom having access to “lives” videos on his computer at the ICC Detention Centre which, if considered non-privileged communications, have not been monitored to ensure compliance with the Chamber’s restrictions on contacts, or imported as written correspondence or via the import procedure as per the Regulations of the Registry.

II. Procedural history

2. Pursuant to a series of decisions,³ the following restrictions on Mr Yekatom’s contacts were put in place: (1) random active monitoring of non-privileged

¹ 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, para. 33.

² Registry, “Seventh Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V”, 13 February 2023, ICC-01/14-01/18-1750-Conf-Exp..

³ 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, 11 November 2020 Decision, paras. 18, 22, 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, “Sixth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention”, 20 May 2022, ICC-01/14-01/18-1420-Conf-Exp, para. 12; Trial Chamber V, “Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List”, 15 June 2022, ICC-01/14-01/18-1460-Conf-Exp; Trial

phone calls with authorized family members and other authorized individuals, whose identity and contact details have been duly verified beforehand by the Chief Custody Officer (“CCO”), who may request the support of the Victims and Witnesses Section (“VWS”), for 180 minutes distributed in two 90 minutes periods two times a week; (2) random active monitoring of visits with authorized family members and other authorized individuals, with the exception of visits from his wife and children, whose identity and contact details have also been duly verified beforehand; (3) written correspondence limited to the individuals on his non-privileged contact list; (4) non-privileged communication limited to the languages of French and Sango; and (5) the prohibition of obscure or coded language and discussions related to his case during non-privileged communications. The Chamber also ordered the Registry to submit reports on the implementation of the restrictions on contact every six months.⁴

3. On 5 April 2023, the Chamber lifted the active monitoring for non-privileged calls between Mr Yekatom and his children which remain subject to passive monitoring pursuant to regulation 174 of the RoR.⁵

Chamber V, “Seventh Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“29 September 2022 Decision”), 29 September 2022, ICC-01/14-01/18-1590-Conf-Exp, paras. 10-11; Trial Chamber, “Decision on the Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution” (“18 October 2022 Decision”), 18 October 2022, paras. 9-10; Trial Chamber V, “Decision on the Second Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution” (“8 February 2023 Decision”), 8 February 2022, ICC-01/14-01/18-1745-Conf-Exp, paras. 5-6; Trial Chamber V, “Decision on the Second Yekatom Defence Request to Amend Mr Yekatom’s Contact Restrictions based on a Proposed Agreement with the Prosecution”, 8 February 2023, ICC-01/14-01/18-1745-Conf-Exp, paras. 5-6; Trial Chamber V, “Eight Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention”, (“5 April 2023 Decision”), 5 April 2023, ICC-01/14-01/18-1830-Conf-Exp, paras. 11-12; Trial Chamber V, “Decision on the Implementation of the Eighth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“29 May 2023 Decision”), 29 May 2023, ICC-01/14-01/18-1895-Conf-Exp, para. 10.

⁴ Trial Chamber V, 11 November 2020 Decision, para. 33.

⁵ Trial Chamber V, 5 April 2023 Decision, para. 11.

III. Classification

4. In accordance with regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the present report and annexes I and II is classified as confidential, *ex parte* only available to the Yekatom Defence and the Registry, as: (1) it refers to decisions of the same level of confidentiality and; (2) it contains third-party and personal information pertaining to Mr Yekatom’s private life. A confidential redacted version of the present report will be filed simultaneously.

IV. Applicable law

5. For the purpose of the present report, the Registry has considered regulations 99(1)(i), and 100 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 177, 179, 180, 183 and 184 of the Regulations of the Registry (“RoR”).

V. Submissions

In relation to non-privileged telephone calls

6. In implementing the Chamber’s orders,⁶ the Registry has actively monitored Mr Yekatom’s telephone calls at random, as frequently as possible with authorized family members and other authorized individuals,⁷ and has ceased to actively monitor Mr Yekatom’s non-privileged telephone calls between Mr Yekatom and his children since 5 April 2023.⁸ All non-privileged calls remain passively monitored pursuant to regulation 174 of the RoR.
7. As instructed by the Chamber on 10 March 2023,⁹ the Registry informs as follows. On 10 February 2023, as reported to the Chamber,¹⁰ during a non-privileged telephone call between Mr Yekatom and [REDACTED], Mr Yekatom

⁶ See footnote 3.

⁷ Trial Chamber V, 17 April 2020 Decision, paras. 13, 30; see footnote 3.

⁸ Trial Chamber V, 5 April 2023 Decision, paras. 11-12; Trial Chamber V, 29 May 2023 Decision, para. 10.

⁹ Email sent by the Trial Chamber V to the Registry on 10 March 2023 at 11:38. The confidential redacted version of the email was shared by the Trial Chamber V with the participants on 21 March 2023 at 13:34.

¹⁰ Email sent by the Registry to the Trial Chamber V on 6 March 2023 at 16:33. The confidential redacted version of the email was shared by the Trial Chamber V with the participants on 21 March 2023 at 13:34.

stated, *inter alia*, that : “[REDACTED]”.¹¹ The Registry understood that these comments were directed to the Registry staff, [REDACTED].

8. On 17 February 2023, as reported to the Chamber,¹² during a non-privileged telephone call between Mr Yekatom and [REDACTED], Mr Yekatom stated, *inter alia*, that: “[REDACTED]”.¹³
9. On 2 March 2023, as reported to the Chamber,¹⁴ the ACCO met with Mr Yekatom and gave him an oral and written warning about the aforesaid conversations: that he desist from making derogatory comments or threatening remarks against the ICC staff in charge of monitoring his non-privileged conversations. In this regard, the Registry notes that a detained person’s freedom of expression does not extend to the use of offensive or intimidating language which may create an “unsafe” or “inadequate” environment for its staff, which in turn may affect the “good order” within the Detention Centre (as per regulation 187(1) of the RoR).
10. On 12 July 2023, during a non-privileged call between Mr Yekatom and [REDACTED], Mr Yekatom stated that: [REDACTED]”.¹⁵
11. On 2 August 2023, during a non-privileged call between Mr Yekatom and [REDACTED], Mr Yekatom stated that: “[REDACTED]”.¹⁶
12. The ACCO understands that the above mentioned non-privileged conversations mentioning “lives” refer to videos (“Content”) which appears to

¹¹ Annex I.

¹² Email sent by the Registry to the Trial Chamber V on 6 March 2023 at 16:33. The confidential redacted version of the email was shared by the Trial Chamber V with the participants on 21 March 2023 at 13:34.

¹³ Annex I.

¹⁴ Email sent by the Registry to the Trial Chamber V on 6 March 2023 at 16:33. The confidential redacted version of the email was shared by the Trial Chamber V with the participants on 21 March 2023 at 13:34.

¹⁵ Annex II, line 10, p.1, line 72, p.4 and line 107, p.5.

¹⁶ Annex II, line 18, p. 7 and line 20, p. 8.

be viewed by Mr Yekatom on his computer at the ICC Detention Centre.¹⁷ Each detained person has a computer in his/her cell. This computer is only strictly used for accessing the Privileged Defence Network. Use of the said computer falls under Regulation 97(1) of the Regulations of the Court; it is regulated by the Registry Policy on Computer Use and Case Related Materials,¹⁸ which restricts the use of the network to enable detained persons to view case related materials and evidence uploaded by their defence team. The Registry informs that Mr Yekatom, like other detained persons at the ICC Detention Centre, does not have access to the internet through his computer.

13. The Registry further informs that the ACCO does not have access to the Content, and concomitantly, that the Content has not been monitored to ensure compliance with the Chamber's restrictions on contacts, or imported as written correspondence or via the import procedure per the RoR.¹⁹ The Registry so informs in the event that the Content is case-related, insofar as Mr Yekatom is prohibited, during his non-privileged communications, from discussing matters related to his case.²⁰

In relation to non-privileged in-person visits

14. In implementing the Chamber's order, the Registry randomly actively monitored Mr Yekatom's non-privileged visits as frequently as possible, with the exception of his wife and children.²¹ The Registry has no incident to report in relation to Mr Yekatom's non-privileged visits.

In relation to written correspondence

¹⁷ Each detained person has a computer in his/her cell which is linked to one specific computer at the Court; only his defence has access to that computer. The Defence can upload case-related material which the detained person can access.

¹⁸ Registry, "Policy on case related computer use and printing at the ICC Detention Centre".

¹⁹ Regulations 168, 169 and 170 of the Regulations of the Registry.

²⁰ Trial Chamber V, 17 April 2020 Decision, paras. 13, 30.

²¹ Trial Chamber V, 17 April 2020 Decision, para. 13.

15. Any written correspondence or packages that are sent or received pursuant to regulations 168, 169 and 170 of the RoR are closely monitored in accordance with the relevant regulations and Chamber's decisions.²² The Registry has no incident to report in relation to Mr Yekatom's written correspondence.



Marc Dubuisson, Director Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 31 October 2023

At The Hague, the Netherlands

²² Trial Chamber V, 27 May 2021 Decision, paras. 21-25; Trial Chamber V, 27 October 2021 Decision, para. 11.