

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No. ICC-01/14-01/18

Date: 14 March 2025

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler, Alternate Judge

SITUATION IN CENTRAL AFRICAN REPUBLIC II

*IN THE CASE OF THE PROSECUTOR v.
ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA*

Confidential

With Confidential *Ex Parte* Annex A

Only available to the Yekatom Defence and the Registry

**Confidential Redacted Version of "Yekatom Defence Observations on the
"Eleventh Registry Report on the Implementation of the Restrictions on Contacts
for Mr Yekatom Ordered by Trial Chamber V", 28 February 2025, ICC-01/14-01/18-
2764-Conf", 13 March 2025, ICC-01/14-01/18-2766-Conf-Exp**

Source: Defence for Mr Alfred Rombhot Yekatom

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M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

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Reparations Section

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom ('Defence') hereby provides its observations to the "Eleventh Registry Report on the Implementation of the Restrictions on Contacts for Mr Yekatom Ordered by Trial Chamber V" ('Report').¹
2. The Defence wishes to provide clarifications on the reported incidents which have no connection with the present proceedings and are exclusively related to private and cultural matters. By their limited nature, and noting the lack of concerns raised by the Registry in regard to the substance, the Defence submits that they do not amount to violations warranting any modification of the current restrictions.

PROCEDURAL BACKGROUND

3. On 3 October 2024, the Chamber maintained the restrictions on contact and communications of Mr Yekatom which "consist of (i) non-privileged phone calls and visits limited to the individuals on Mr Yekatom's non-privileged contact list, whose identity and contact details have been duly verified beforehand by the Chief Custody Officer, who may request the support of the Victims and Witnesses Unit; (ii) written correspondence limited to the individuals on Mr Yekatom's non-privileged contact list; (iii) non-privileged communications limited to French and Sango; and (iv) the prohibition of obscure or coded language and discussions related to the present case during non-privileged communications" ('Restrictions').²
4. On 28 February 2025, the Registry filed the Report regarding the recording of a phone conversation, the use of speakerphone, as well as a conversation with an

¹ ICC-01/14-01/18-2764-Conf.

² ICC-01/14-01/18-2715-Conf, para. 7.

individual not included on Mr Yekatom's non-privileged contact list during the phone call on 9 and 14 November 2024 ('Calls').

5. On 10 March 2025, the Prosecution filed the "Prosecution's Observations on the "Eleventh Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V" (ICC-01/14-01/18-2764-Conf)" ('Prosecution's Observations') in which it requests the Chamber to maintain the current restrictions.³

SUBMISSIONS

I. Phone call on 9 November 2024

6. The Registry reports that during the phone call on 9 November 2024, Mr Yekatom would have requested the interlocutor to record the call and place him on speakerphone.⁴
7. The conversation occurred in the course of a traditional ceremony organised in Bangui to mark the birth of Mr Yekatom's latest child with his partner.⁵ In accordance with Central African traditions, Mr Yekatom's family, on his behalf, provided a dowry to his partner's family to support the care of their latest child.⁶ This significant milestone was celebrated by the unification of Mr Yekatom's family and his partner's family and in the presence of religious figures and members of their respective communities who all travelled for this occasion from various localities, including from Mbaïki and Boukoko.⁷
8. Given the immense importance of this event in Mr Yekatom's personal life and culture, Mr Yekatom wished for his gratitude to be shared with members of his community whom had gathered to share in the celebration. Whilst it appears that Mr Yekatom may have got caught up in the celebratory moment, the

³ ICC-01/14-01/18-2765-Conf.

⁴ ICC-01/14-01/18-2764-Conf, para. 6.

⁵ See references to the ongoing ceremony at ICC-01/14-01/18-2764-Conf-Exp-AnxI, p. 1, paras, 4 and 8. See also photographs of the traditional ceremony at Annex A.

⁶ See Annex A.

⁷ See Annex A.

conversation was clearly unrelated to the case and, moreover, there is no indication that such a recording actually took place. At no point did Mr Yekatom's interlocutor communicate that he was recording either the first or second call that day, nor that a recording had been made. The absence of any further mention of recording in the second call further confirms that this incident was simply a momentary lapse of judgment in the context of the ceremony.

9. Regarding the alleged use of the speakerphone, as raised in the Report, the Registry refers to an extract where Mr Yekatom asks "*met le volume*"⁸ and indicates that "using speakerphones are not allowed in order to, *inter alia*, prevent unauthorised persons to listen to the conversations".⁹
10. In the absence of access to the audio recording, the Defence is not in a position to make any observations on whether the sound of the call indicates whether the speakerphone was used.¹⁰ However, the Defence clarifies that Mr Yekatom did not request for the use of speakerphone during the call, but rather asked for the volume to be increased, as reflected by the transcript.¹¹ Mr Yekatom's request stating "*met le volume pour qu'elle me suive car elle n'entend pas bien*"¹² indicates clearly that his request was made solely to ensure that his interlocutor on the line, [REDACTED], who has hearing difficulties, could properly follow the conversation.¹³ It is reasonably understood that the first interlocutor raised the volume before passing the phone to [REDACTED] to ensure she could hear and follow the conversation properly.

⁸ ICC-01/14-01/18-2764-Conf-Exp, para. 6.

⁹ ICC-01/14-01/18-2764-Conf-Exp, para. 6.

¹⁰ In an email from the Detention Centre to the Defence on 15 February 2023, the request for access to audio recordings of the phone call relevant to the latest report was rejected (ICC-01/14-01/18-1750) and further stated that the ICCDC does not provide audio recordings (email available upon request).

¹¹ ICC-01/14-01/18-2764-Conf-Exp-AnxI, p. 3, para. 5.

¹² ICC-01/14-01/18-2764-Conf-Exp-AnxI, p. 3, para. 5.

¹³ ICC-01/14-01/18-2764-Conf-Exp-AnxI, p. 3, para. 5.

11. Mr Yekatom's discussion during this phone call only involved authorized interlocutors,¹⁴ concerned solely private matters and did not involve any obscure or coded language. The subject of their conversation had no connection to the case or any matters that could compromise witness security or the integrity of the proceedings.
12. Mr Yekatom remains mindful of the Restrictions and explicitly reminded his interlocutors of them during the same conversation where he indicated that *"comme son nom ne figure pas ici sur la liste je ne peux pas parler avec elle seulement quand je vais l'inscrire ici j'aurai l'occasion de causer avec elle. Quant à [REDACTED] et toi vos noms figurent déjà ici je peux causer"*.¹⁵ This further demonstrates Mr Yekatom's genuine intention to adhere to the Restrictions as imposed by the Chamber.

II. Phone Call on 14 November 2024

13. The Registry reports that on 14 November 2024, Mr Yekatom had a conversation on a phone call with an interlocutor who was not on his non-privileged contact list.¹⁶
14. During this phone call between Mr Yekatom and [REDACTED], who is an authorized contact, [REDACTED] who is [REDACTED], arrived at the same location as [REDACTED].¹⁷ Mr Yekatom, driven by personal excitement to speak with her as she was unexpectedly present at the location, engaged in a brief exchange to greet her and inquire about her well-being.¹⁸ No further discussion was held with [REDACTED] throughout the duration of the call which in total lasted 8 minutes.
15. The reported exchange with [REDACTED] was extremely limited in duration and concerned strictly personal matters. The discussion did not relate to the

¹⁴ ICC-01/14-01/18-2764-Conf, para. 6.

¹⁵ ICC-01/14-01/18-2764-Conf-Exp-AnxI, p.8, para. 124.

¹⁶ ICC-01/14-01/18-2764-Conf, para. 7.

¹⁷ ICC-01/14-01/18-2764-Conf-Exp-AnxII, p.3, paras 43-47.

¹⁸ ICC-01/14-01/18-2764-Conf-Exp-AnxII, p.3, paras 60-78.

case, posed no risk to witnesses or any other individuals, and had no impact on the integrity of the proceedings.

16. The Defence also emphasises that these incidents must be considered within the broader context of Mr Yekatom's current detention. Having been in detention for over six years, Mr Yekatom has had very limited opportunities to receive visits from close relatives. This singular and isolated oversight that constitutes this short greeting from Mr Yekatom to [REDACTED] in the presence of an authorized interlocutor should be examined in this context. It does not indicate any deliberate or continued intent on his part to circumvent his restrictions.

III. Prosecution's Observations on the Calls

17. The Defence strongly rejects the OTP's repetitive claim regarding Mr Yekatom's "lengthy history of circumventing the conditions",¹⁹ as this assertion is unfounded and ignores the factual findings of the Chamber. In support of this misrepresentation, the OTP refers to its sentencing submissions where it mentioned reported violations to be "numerous"²⁰ without providing any details or reference to the factual findings of the Chamber. These claims are speculative and do not correspond with the Chamber's conclusions.²¹
18. In fact, as also noted by the Chamber, "while Mr Yekatom breached the Current Restrictions in the past, his last breach occurred in September 2021 and the Chamber concluded that it '[d]id not appear to relate to matters that tend to compromise witness security or the integrity of the proceedings'".²² Moreover, through his six years of detention not once did he interfere with the proceedings, attempt to speak to witnesses and none of the isolated breaches found by the Chamber involved case-related matters, affected the proceedings,

¹⁹ ICC-01/14-01/18-2765-Conf. See also ICC-01/14-01/18-2668-Conf, para. 6.

²⁰ The reference used by the Prosecution states : "I will not belabour the point, but the record of reported violations of, and attempts to circumvent, the Chamber's order on the conditions of detention, particularly restricting contacts while in detention, are also numerous for both accused.", T-310-ENG ET WT, p. 42, lines 13-15.

²¹ ICC-01/14-01/18-2680, paras. 17-22.

²² ICC-01/14-01/18-1830-Conf-Exp, para. 11.

or posed any risk to any witness or individual. Mr Yekatom remains mindful of his restrictions and has demonstrated his willingness to comply.

19. With regard to the OTP's submission that "it is unclear whether the Registry has thus far imposed any meaningful disciplinary action toward enforcing the Accused's conditions of detention",²³ the Defence emphasises that there is no justification for additional disciplinary measures when the existing monitoring system has effectively addressed any potential concerns. Mr Yekatom's phone calls have been consistently monitored (either actively and passively), with any potential issues brought to the Chamber's attention by the Registry, which has assessed the necessity and proportionality of these restrictions throughout the trial.

CONCLUSION

20. In conclusion, these reported incidents have no connection with the present proceedings and are solely related to private matters. Given their limited nature and the absence of clear evidence supporting some of the submissions raised by the Registry, the Defence submits that they do not amount to violations warranting any modification of the existing restrictions. The brief and personal nature of these exchanges makes it clear that they do not undermine the core purpose of the Restrictions, which are in place to protect witnesses, victims and the integrity of the proceedings. Moreover, Mr Yekatom has been reminded of his obligations and has reiterated his commitment in complying with them.

CONFIDENTIALITY

21. These observations are filed on a confidential *ex parte* basis as it provides personal information related to Mr Yekatom and his relatives. A confidential redacted version will be filed forthwith.

²³ ICC-01/14-01/18-2765-Conf, para. 5.

RELIEF SOUGHT

22. In light of the above, the Defence respectfully requests Trial Chamber V to take into consideration the present observations and refrain from entering any finding of violation in relation to the telephone calls on 9 and 14 November 2024.

RESPECTFULLY SUBMITTED ON THIS 14th DAY OF MARCH 2025



Me Mylène Dimitri
Lead Counsel for Mr Yekatom

Dated 14 March 2025

At The Hague, the Netherlands