

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No. ICC-01/14-01/18
Date: 13 October 2026

TRIAL CHAMBER V

Before: Judge Beti Hohler , Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

SITUATION IN CENTRAL AFRICAN REPUBLIC II

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

**Public
with Confidential Annex A**

Public Redacted Version of the “Yekatom Defence Observations and Related Request further to the “Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Yekatom”, ICC-01/14-01/18-2930, 3 September 2026”, ICC-01/14-01/18-2931-Conf, 11 September 2026

Source: Defence for Mr. Alfred Rombhot Yekatom

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INTRODUCTION

1. The Defence for Mr Yekatom (“Defence”) hereby provides the following observations¹ on the Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Yekatom (“Report”).²
2. The Defence also requests in the present filing the modification of the current restrictions on contacts of Mr Yekatom in light of (i) the change of circumstances since the issuance of the Appeals Chamber decision; (ii) Mr Yekatom’s rights to family life and rights as a detainee; (iii) the absence of any concerns reported by the Registry during the last six months of monitoring, and (iv) the Prosecution’s agreement to their modifications.
3. The sought modification is the removal of the active monitoring of Mr Yekatom’s calls, which currently limits their duration to 90 minutes per week during fixed and specific time slots.

PROCEDURAL HISTORY

4. On 25 October 2023, after the close of the Prosecution case, Trial Chamber V removed the active monitoring of Mr Yekatom’s calls considering that the risk of interference with witnesses is significantly reduced at this stage of the proceedings, and that the passive monitoring of calls is sufficient and appropriate.³
5. On 16 September 2025, after the conviction of Mr Yekatom, the Appeals Chamber modified the restrictions to allow Mr Yekatom to discuss his case with his interlocutors, without revealing the identity of any witnesses, taking into account the “less prominent risks to the integrity of the proceedings and safety of victims and witnesses”.⁴

¹ [ICC-01/14-01/18-2811](#), para. 31.

² [ICC-01/14-01/18-2930](#).

³ [ICC-01/14-01/18-2165](#), paras 13-17.

⁴ [ICC-01/14-01/18-2811](#), paras 23-26.

6. On 17 February 2026, following a violation by Mr Yekatom of this restrictions, the Appeals Chamber reinstated, provisionally, the active monitoring of Mr Yekatom's communication and their limitation to 90 minutes per week.⁵ The Appeals Chamber noted, in relation to the improper call, that no evidence suggested that it could "lead to the occurrence of any of the adverse consequences enumerated in regulation 101(2), including [REDACTED]".⁶
7. On 31 March 2026, the Appeals Chamber extended the restrictions on Mr Yekatom's communications, including their active monitoring and limitation to 90 minutes per week, until the next "decision in relation to the next biannual reporting period of the Registry".⁷ The Appeals Chamber further clarified that "all future reports or requests, as well as any issues arising thereto relating to Mr Yekatom's contact restrictions, shall henceforth be addressed to the Trial Chamber, which will assume responsibility for their continued oversight and, where necessary, modification [...]".⁸
8. On 3 September 2026, the Registry submitted the Report, in which it stated that it has not identified any concerns to report.⁹

SUBMISSIONS

9. The Defence notes the Registry Report's finding that during the last six months it did not identify any concerns in relation to the calls of Mr Yekatom which were actively monitored during this period.¹⁰ In light of the content of the Report and for the reasons set out below, the Defence requests the active monitoring of his calls to be lifted.

⁵ ICC-01/14-01/18-2882-Conf-Exp, paras 27-28. Public Redacted Version available: [ICC-01/14-01/18-2882-Red](#).

⁶ Ibid, para. 23.

⁷ ICC-01/14-01/18-2897-Conf-Exp, para. 19. Public Redacted Version available: [ICC-01/14-01/18-2897-Red](#).

⁸ ICC-01/14-01/18-2897-Conf-Exp, para. 23.

⁹ [ICC-01/14-01/18-2930](#), para. 6.

¹⁰ [ICC-01/14-01/18-2930](#), para. 6.

Lifting of the active monitoring of Mr Yekatom's calls is not opposed by the Prosecution

10. On 17 February 2026 the Appeals Chambers modified the restrictions on communications of Mr Yekatom, adding the active monitoring of his calls,¹¹ further to a request of the Prosecution to suspend them altogether,¹² and to the Defence suggestion that active monitoring rather than a total suspension would be sufficient given the circumstances.¹³
11. In anticipation of the notification of the Report, the Defence consulted *inter partes* with the Prosecution as regards the possibility to lift some restrictions on Mr Yekatom's communication. Following the notification of the said Report in which it was indicated that nothing of concern was identified,¹⁴ the Prosecution indicated that it would not oppose the modification of Mr Yekatom's restrictions on the understanding that it would seek to reimpose the stricter conditions should any more violations occur.
12. During consultations between the Defence and the Prosecution on this subject matter, the Prosecution indicated that it did not object to the Defence reflecting the Prosecution's position in the present observations, given that the Prosecution may elect not to file separate observations on the matter.
13. The Defence submits that the position of the Prosecution on the matter is one factor, among others, that militate in favor of lifting the active monitoring of Mr Yekatom's call.

Lifting of the active monitoring of Mr Yekatom's calls would not impact the interests listed in Regulation 101(2)

¹¹ ICC-01/14-01/18-2882-Conf-Exp.

¹² ICC-01/14-01/18-2865-Conf-Exp, para. 6.

¹³ ICC-01/14-01/18-2871-Conf-Exp, paras 7-9.

¹⁴ [ICC-01/14-01/18-2930](#), para. 6.

14. Regulation 101(2) of the Regulations of the Court provides a list of legitimate protected interests that the Prosecution must demonstrate would be at risk without restrictions on a detainee's communications. Such restrictions can be imposed if the Prosecutions has reasonable grounds to believe that the communications :
- a) Is for the purposes of attempting to arrange the escape of a detained person from the detention centre;
 - b) Could prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation;
 - c) Could be harmful to a detained person or any other person;
 - d) Could be used by a detained person to breach an order for non-disclosure made by a judge;
 - e) Is against the interests of public safety; or
 - f) Is a threat to the protection of the rights and freedom of any person
15. For any interference with Mr Yekatom's right to privacy and family life to be justified and balanced, it should consequently be demonstrated that concrete concerns exist that one or more of the protected interests listed in Regulation 101(2) is at stake without the restrictions on communications.¹⁵ Should some sort of restrictions to be necessary, they must be the least restrictive possible to the rights of the detained person.¹⁶
16. In September 2025, the Appeals Chamber held that the risk to the outcome of the proceedings was one factor (albeit 'less prominent' at the appeals stage) justifying the continuation of some sort of restrictions, having noted the Prosecution's submission that "further litigation in this case is certain".¹⁷ One year later, this situation has changed substantially: the parties filed their notices of appeal on 26 September 2025;¹⁸ appeal briefs were filed on 25 November

¹⁵ *Prosecutor v. Al Hassan*, Decision on Mr Al Hassan's restrictions and accesses while in detention, 14 February 2020, [ICC-01/12-01/18-557-Red3](#), para. 10 : "Furthermore, as noted by the PTC I Single Judge, 'such restrictions, because they interfere with the rights of the detained person, must be based on the existence of an objectively justifiable risk'".

¹⁶ *Ibid.*

¹⁷ [ICC-01/14-01/18-2811](#), para. 29.

¹⁸ [ICC-01/14-01/18-2814](#) ; [ICC-01/14-01/18-2815](#) ; [ICC-01/14-01/18-2816](#).

2025;¹⁹ responses were filed on 27 February 2026;²⁰ and the reply (granted only for the Defence of Mr Ngaïssona) was filed on 20 May 2026.²¹ While supplementary written submissions or oral hearings might still occur before the appeal judgment is issued, it is highly unlikely at this stage that any witness would be called by the Appeals Chamber. The underlying risks of any interference with the outcome of the proceedings has thus significantly diminished, and lifting the active monitoring of Mr Yekatom's calls would not unduly jeopardize this interest.

17. Nor would lifting the active monitoring of his calls negatively impact the safety of witnesses and victims. The Defence recalls that previous violations of the restrictions on contacts, while regrettable, were never found to have compromised the security of witnesses.²²
18. The Appeals Chamber, in its decision reinstating active monitoring of Mr Yekatom's calls, underlined that the call which violated the restrictions "did not concern any action to be taken in relation to judicial proceedings", and found that it was not persuaded that "any of the adverse consequences enumerated in regulation 101(2) of the Regulations, [REDACTED]" was involved.²³
19. There is no evidence that lifting the active monitoring of Mr Yekatom's calls would jeopardize any of the other protected interests listed in Regulation 101(2). The standard passive monitoring of his calls and the continuation of the remaining restrictions²⁴ constitute on this matter a sufficient safeguard.
20. The absence of any concern in the Report, covering the last six months, is a further indicia that Mr Yekatom's communications are not threatening a

¹⁹ ICC-01/14-01/18-2846-Conf ; ICC-01/14-01/18-2847-Conf ; ICC-01/14-01/18-2848-Conf.

²⁰ ICC-01/14-01/18-2884-Conf, ICC-01/14-01/18-2885-Conf, ICC-01/14-01/18-2886-Conf.

²¹ [ICC-01/14-01/18-2917](#), [ICC-01/14-01/18-2920](#).

²² [ICC-01/14-01/18-2165](#), para. 15 ; ICC-01/14-01/18-2882-Conf-Exp, paras 23-24.

²³ ICC-01/14-01/18-2882-Conf-Exp, para. 23.

²⁴ See below para 35.

protected interest listed in Regulation 101(2). Recalling that the restrictions must be the least restrictive possible to the rights of the detained person, the Defence contends that lifting the active monitoring of Mr Yekatom's calls is appropriate and necessary to preserve such rights.

Changes in circumstances which occurred since the issuance of the Appeals Chamber's decision militate in favor of lifting the active monitoring of Mr Yekatom's calls

21. When the Appeals Chamber first reinstated on 17 February 2026 the active monitoring of Mr Yekatom's non privileged calls, combined with a 90-minute limit per week, it considered those restrictions to "not be overly restrictive or unduly interfere with his right to privacy and family life, particularly given the short period for which these measures will apply pending the Chamber's decision on the Registry's upcoming report".²⁵ It reached the same conclusion when it extended those restrictions until the next (now-issued) Registry report.²⁶
22. Since those decisions of the Appeals Chamber changes of circumstances occurred which militate in favor of lifting the active monitoring of Mr Yekatom's calls. The Defence particularly highlights that the Appeals Chamber was not appraised of the impact on various rights of Mr Yekatom during the last six months of the implementation of the additional restrictions.
23. Indeed, the current 90-minute time limit of non privileged calls per week (linked to the active monitoring) detrimentally impact his ability to meaningfully maintain family life. This limitation directly impacts his ability to communicate with some of his children and does not account for the practical difficulties that may arise when calling family members in the Central African Republic or [REDACTED]. In particular, poor cellular service or family

²⁵ ICC-01/14-01/18-2882-Conf-Exp, para. 27.

²⁶ ICC-01/14-01/18-2897-Conf-Exp, para. 20.

members who have technical issues with their phones and little means to afford new ones are common occurrences.

24. As an example, Mr Yekatom recently attempted to call his children in [REDACTED] during one of his tri-weekly 30-minute sessions of phone communication. Unfortunately, his children had technical issues with the phone they were using that day. By the time they managed to insert the SIM-card in a different handset, and inform one of Mr Yekatom's co-counsel that the issue was resolved and that their father could call them again, the dedicated 30-minute session had elapsed, thereby depriving Mr Yekatom of the opportunity to speak with them until the following week.
25. The Appeals Chamber was equally not informed of the impacts of the active monitoring during family visits. Typically, funded family visits last all day until 16h20.²⁷ During the last funded family visit, for one partner and two children, Mr Yekatom was deprived of a number of opportunities to have phone communication with his other children, family members and relatives.²⁸ This is due to the scheduling conflict that the active monitoring creates. To give effect to this restriction, the calls are limited to a fixed duration and schedule to allow Registry staff to listen simultaneously; and this schedule overlaps with the visit schedule, which create tensions between the right to receive visit²⁹ and the right to communicate by telephone.³⁰
26. The timeslot for Mr Yekatom's tri-weekly 30 minute calls was scheduled between 16:00 and 16:30, and since his visitors themselves left the Detention Centre around 16:20, Mr Yekatom was denied the opportunity to call other family members after the end of the visit. The restrictions, combined with the

²⁷ Detention Centre Policy on Family Visits pursuant to Regulation 179(1) of the Regulations of the Registry, Section IV, para. 22 indicating visiting hours between 9:00 and 16:45. In reality, during the last funded family visits Mr Yekatom's family was only able to visit from 9:20 to 16:20 (schedule available upon request).

²⁸ The funded family visit, for three visitors, took place from [REDACTED] August 2026 to [REDACTED] August 2026.

²⁹ Regulation 100 of the Regulations of the Court.

³⁰ Regulation 99(1)(i) of the Regulations of the Court.

Detention Centre's refusal to shift the call schedule forward by only half an hour, which would have allowed calls between 16:30 and 17:00 after the end of the visit, deprived Mr Yekatom of the possibility to maintain relations with the family members who were not visiting.

27. Moreover, as the Appeals Chamber clarified that the 90-minute time limit includes Mr Yekatom's monthly video calls with family,³¹ Mr Yekatom was essentially deprived of the possibility to exercise this option. Indeed, as video calls organized by the Detention Centre are 90 minutes long, Mr Yekatom's decision to benefit from such a call would mean that he could not talk to any other family members through regular voice calls until the following week. Due to this constraint, Mr Yekatom has not exercised his right to video call, which would have been particularly helpful for seeing his family in CAR, since the reinstatement of the active monitoring of his calls. Indeed, Mr Yekatom's aging mother's health situation is fragile and has slightly deteriorated since the beginning of the year. In such circumstances a video call would have been greatly beneficial for Mr Yekatom's to discuss and see his mother, however the active monitoring and the 90 minutes limitation it entailed meant that if Mr Yekatom elected to have such a video call, he would not be able to discuss with anyone else for the entire week. The Defence submits that such dilemmas, given the family situation of Mr Yekatom, are new circumstances that the Appeals Chamber were not aware of at the time it issued its decisions on the restrictions.
28. The Appeals Chamber was also not apprised of the impact of the active monitoring of Mr Yekatom's calls on his other rights as a detainee. It could not have anticipated them as those adverse consequences derive from the current ICCDC schedule.
29. Indeed, the 90 minutes per week allocated for communications are currently divided in three 30-minute sessions on [REDACTED], [REDACTED] and

³¹ ICC-01/14-01/18-2897-Conf-Exp, para. 22.

[REDACTED] from 16:00 to 16:30. This call schedule is necessary to allow Mr Yekatom to talk to his children who are not available at other times during the day due to their work or school activities.

30. However, this schedule also means that Mr Yekatom is deprived of “fresh air” time on [REDACTED] and [REDACTED].³² The Defence highlights that this conflict of schedule is particularly prejudicial as only one hour of fresh air, i.e. the ability to go outside in the yard of the prison, is scheduled per day. This means that two days a week Mr Yekatom is not able to benefit from this activity which is of particular importance for the well-being of detained persons. The importance of this activity is internationally recognized, for instance in Rule 23 of the Mandela Rules which provide that “[e]very prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits”.³³
31. Mr Yekatom is equally deprived each [REDACTED], of the full and effective benefit of the range of religious activities to which he is entitled.³⁴ While the Defence wrote the ICCDC on 2 September 2026 to request Mr Yekatom’s calls to be moved from [REDACTED] to [REDACTED], in order to prevent the conflict of schedule with religious activities, no answer has been forthcoming.³⁵
32. The implementation of the restrictions on his communications, and the fixed scheduled of 90 minutes of calls it entails, therefore means that Mr Yekatom’s right to spiritual welfare, enshrined in Regulation 102 RoC and his right to one hour of exercise in open air per day enshrined in Regulation 99(1)(f) RoC are impeded.
33. Without the constraint of the fixed scheduled entailed by the active monitoring of his calls, Mr Yekatom would be able to call his family relatives at more

³² See Annex A : Mr Yekatom’s weekly program at the ICCDC.

³³ Rule 23 (1) of the [United Nations Standard Minimum Rules for the Treatment of Prisoners](#).

³⁴ See Annex A : Mr Yekatom’s weekly program at the ICCDC.

³⁵ Email from the Defence to the ICCDC sent on 2 September 2026 at 11:12 (available upon request).

flexible time which would prevent him having to choose between maintaining contact with his family or benefitting from activities that are recognized as rights of a detained individual.

34. The Defence submits that the constraints entailed by the active monitoring thus detrimentally impact Mr Yekatom's rights to maintain family life and other rights as a detained person in a manner that was not anticipated by the Appeals Chamber. In light of this change of circumstances and of Mr Yekatom's specific circumstances described above,³⁶ it is submitted that those impacts are not proportionate to the objective of safeguarding Regulation 101(2) interests. The lifting of the active monitoring of all of Mr Yekatom's calls is therefore warranted.

Conclusion

35. The Defence recalls that should the active monitoring be lifted, all of Mr Yekatom's calls would continue to be passively monitored pursuant to Regulation 174 of the Regulations of the Registry, meaning that all non-privileged calls would be recorded and could be listened to *a posteriori*, in order to assess whether any protected interests were jeopardized.³⁷ It is also underlined that Mr Yekatom's communications would still be subject to the remaining restrictions, in particular the prohibition to discuss or reveal "in clear or coded language: (1) any identifying information about victims and witnesses and their family members, such as names, pseudonyms, references to their work, or family links; and (2) whereabouts of victims and witnesses and their family members".³⁸
36. Considering the last Registry report and in light of the above, the Defence respectfully requests the Chamber to modify the current restrictions on Mr

³⁶ See paras 16-20.

³⁷ Regulation 174(2) of the Regulation of the Registry.

³⁸ [ICC-01/14-01/18-2811](#), para. 26.

Yekatom's communication by lifting the active monitoring (and the 90 minutes limitation attached) of his calls.

CONFIDENTIALITY

37. The present Observations are filed on a confidential basis due to references to confidential information relating to the daily schedule of the Detention Centre. A Public Redacted Version will be filed in due course.

RELIEF SOUGHT

38. The Defence respectfully requests Trial Chamber V to :

LIFT the active monitoring and limitation to 90 minutes of Mr Yekatom's calls.

RESPECTFULLY SUBMITTED ON THIS 13th DAY OF OCTOBER 2026



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

Dated 13 October 2026

At The Hague, the Netherlands