

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 15 August 2019

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR *v.* ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA**

**Confidential *EX PARTE* only available to the Defence for Mr Yekatom, the
Prosecutor, and the Registry**

**Eighth Registry Report on the Implementation of the Restrictions on Contact of
Mr Alfred Yekatom Ordered by Pre-Trial Chamber II**

Source: Registry

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

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Legal Representatives of the Victims

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 Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Mr Paddy Craig

**Victims Participation and Reparations
Section**

I. Introduction

1. Following the “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Seventh Decision”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 15 April 2019, in which the Registry is ordered to report on the implementation of the restrictions on contact of Alfred Yekatom (“Mr Yekatom”) every two months, the Registry hereby submits its report on the monitoring of Mr Yekatom’s non-privileged telephone calls, visits and incoming and outgoing mail since 17 June 2019. By this report, the Registry informs the Chamber that no incident was reported.

II. Procedural history

2. On 17 November 2018, the Single Judge issued the “Decision Pursuant to Regulation 101 of the Regulations of the Court”, *inter alia*, directing the Registrar to put in place measures to restrict Mr Yekatom’s contact.²
3. On 30 November 2018, the Registry submitted the “Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge”,³ reporting no incidents.
4. On 4 December 2018, the Chamber issued the “Second Decision Pursuant to Regulation 101 of the Regulations of the Court”, deciding, *inter alia*, to provisionally extend the restrictive measures until 11 January 2019.⁴

¹ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Seventh Decision”), 15 April 2019, ICC-01/14-01/18-176-Conf-Red.

² Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court”, 17 November 2018, ICC-01/14-01/18-11-Conf-Exp.

³ Registry, “Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge”, 30 November 2018, ICC-01/14-01/18-23-Conf-Exp.

⁴ Pre-Trial Chamber II, “Second Decision Pursuant to Regulation 101 of the Regulations of the Court”, 4 December 2018, ICC-01/14-01/18-25-Conf-Exp, para. 8.

5. On 14 December 2018, the Registry submitted the "Second Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II",⁵ reporting no incidents.
6. On 10 January 2019, the Single Judge issued the "Third Decision Pursuant to Regulation 101 of the Regulations of the Court", deciding, *inter alia*, to allow Mr Yekatom private family visits from his wife and children, without any monitoring or sensitive listening devices, and extended the remaining restrictive measures until 1 February 2019.⁶
7. On 23 January 2019, the Registry submitted the "Third Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II",⁷ reporting no incidents.
8. On 1 February 2019, the Chamber issued the "Fourth Decision pursuant to Regulation 101 of the Regulations of the Court", extending the restrictive measures until 15 February 2019.⁸
9. On 11 February 2019, the Registry submitted the "Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II",⁹ reporting no incidents.
10. On 15 February 2019, the Chamber issued the "Fifth Decision pursuant to Regulation 101 of the Regulations of the Court", extending the restrictive measures until 1 March 2019.¹⁰

⁵ Registry, "Second Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre Trial Chamber II", 14 December 2018, ICC-01/14-01/18-32-Conf-Exp.

⁶ Pre-Trial Chamber II, "Third Decision Pursuant to Regulation 101 of the Regulations of the Court", 10 January 2019, ICC-01/14-01/18-52-Conf-Exp, para. 18.

⁷ Registry, "Third Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II", 23 January 2019, ICC-01/14-01/18-62-Conf-Exp.

⁸ Pre-Trial Chamber II, "Fourth Decision Pursuant to Regulation 101 of the Regulations of the Court", 1 February 2019, ICC-01/14-01/18-75-Conf-Exp, para 18.

⁹ Registry, "Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II", 11 February 2019, ICC-01/14-01/18-81-Conf-Exp.

11. On 25 February 2019, the Registry submitted the "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II",¹¹ reporting no incidents.
12. On 1 March 2019, the Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Sixth Decision"), deciding, *inter alia*, that "Yekatom's [...] non-privileged telephone conversations and visits (apart from private family visit) shall henceforth be actively monitored *at random* [...] as frequently as possible".¹²
13. On 8 April 2019, the Registry submitted the "Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II",¹³ reporting no incidents.
14. On 15 April 2019, the Chamber issued the Seventh Decision deciding, *inter alia*, to extend the restrictive measures for the remainder of the pre-trial proceedings.¹⁴ The Decision also requested the Registry to ensure that time required to set up a telephone call does not affect the time allotted to speak on the phone, and to submit a report on the implementation of the restrictive measures every two months.¹⁵

¹⁰ Pre-Trial Chamber II, "Fifth Decision Pursuant to Regulation 101 of the Regulations of the Court", 15 February 2019, ICC-01/14-01/18-86-Conf-Exp, para. 18.

¹¹ Registry, "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II, 25 February 2019, ICC-01/14-01/18-124-Conf-Exp.

¹² Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Sixth Decision"), 1 March 2019, ICC-01/14-01/18-137-Conf-Exp, para. 19.

¹³ Registry, "Sixth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre Trial Chamber II", 8 April 2019, ICC-01/14-01/18-167-Conf-Exp.

¹⁴ Seventh Decision, para. 32.

¹⁵ *Idem*.

15. On 17 June 2019, the Registry submitted the "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II" ("Seventh Report"),¹⁶ reporting no violations.

16. On 9 July 2019, the Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Eighth Decision"), ordering, *inter alia*, the Registry to substantially increase the frequency of random monitoring of telephone calls for specific contacts identified in the Registry's Seventh Report.¹⁷

III. Classification

17. In accordance with regulation 23 *bis* (1) of the Regulations of the Court ("RoC"), the present report is classified as confidential *ex parte* only available to the Defence, the Prosecutor, and the Registry, as it contains sensitive information on Mr Yekatom's private life and detention-related matters.

IV. Applicable law

18. For the purpose of the present submission, the Registry has considered regulations 99(1)(h), (i) and 100 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 179, 180, and 183 of the Regulations of the Registry ("RoR").

V. Submissions

Non-privileged telephone calls

¹⁶ Registry, "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber", 17 June 2019, ICC-01/14-01/18-226-Conf-Exp.

¹⁷ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Eighth Decision"), 9 July 2019, ICC-01/14-01/18-241-Conf-Exp, para. 27.

19. During the reporting period, Mr Yekatom made telephone calls to the individuals on his non-privileged telephone contact list according to an implemented time schedule. As of 13 June 2019, considering the reasonable demands of the daily schedule at the DC and the availability of the interpreter, Mr Yekatom has the opportunity to make non-privileged telephone calls twice a week, for a period of one hour on each scheduled day. The Registry extended the time available for Mr Yekatom to make phone calls from 45 minutes to one hour, in order to effectively implement the Chamber's Seventh Decision.¹⁸ As such, the time required to set up, connect or reconnect a telephone call does not affect the time allocated to Mr Yekatom for non-privileged telephone calls.

20. During the reporting period, the Registry implemented the Chamber's Sixth Decision by actively monitoring the scheduled telephone calls made by Mr Yekatom at random. No incidents were reported.

21. The Registry also implemented the Chamber's Eighth Decision, to substantially increase the random monitoring of the specific contacts concerned,¹⁹ and can hereby confirm that no incidents were reported for those contacts during this reporting period.

22. Nevertheless, the Registry informs the Chamber that the implementation of the Eighth Decision, as regards the significant increase in random monitoring only to specific contacts, poses logistical challenges. Detained persons retain the freedom to choose which individuals they wish to call from their list of contacts during their scheduled telephone calls. The operational reality of a live monitoring environment is that it is impossible to predict which individuals a detained person will call at any moment, thereby constraining the Registry's ability to substantially increase the random active monitoring

¹⁸ See Seventh Decision, para. 33.

¹⁹ Eighth Decision, para. 27.

only for the specific contacts concerned. The Registry is nevertheless internally addressing these challenges, but informs the Chamber that in the future it may wish to seek the Chamber's guidance on the matter.

23. Finally, the Registry highlights that all calls are simultaneously recorded, pursuant to regulation 174 of the RoR, whether or not calls are subject to the random active monitoring.

24. As regards adding additional contacts to non-privileged telephone contact lists, the Registry carefully and duly verifies all persons before the adding a new name to a detained person's contact list. Specifically for Mr Yekatom, the Chief Custody Officer requests the Victims and Witnesses Unit for support as necessary. The Registry does not have any challenges to report to the Chamber regarding the implementation of the Chamber's Decisions in this regard during this reporting period.

Non-privileged Visits

25. Pursuant to the Sixth Decision, Mr Yekatom's non-privileged visits shall be actively monitored at random as frequently as possible, with the exception of family visits from his wife and children only.²⁰ Accordingly, the latter are supervised in accordance with regulation 183 of the RoR. The Registry informs the Chamber that it has fully implemented this Decision and that no incidents have been reported.

26. In order to effectively implement the Chamber's Decision, and due to the operational realities of the Detention Center, the Registry wishes to inform the Chamber that all non-privileged visits, other than those individuals allowed for private family visits, are simultaneously audio recorded whether or not

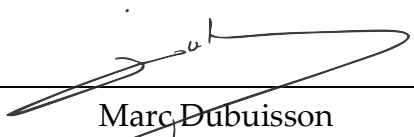
²⁰ Sixth Decision, para. 19.

they are subject to random active monitoring at the time. No incidents were reported during any of the monitored visits.

Incoming and outgoing mail

27. Any written correspondence or packages that are sent or received, pursuant to regulations 168, 169 and 170 of the RoR, will be closely monitored in accordance with the relevant aforementioned Chamber Decisions and regulations. The Registry does not have any incidents or concerns to report for this reporting period.

28. As a final note, the implementation of monitoring orders is a complex and highly detailed process which is resource intensive. The Registry is operating at full capacity in implementing the monitoring orders and decisions, and remains vigilant in implementing the decisions of the Chamber.



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

Dated this 15 August 2019

At The Hague, The Netherlands