



Original: English

No. ICC-01/14-01/18

Date: 15 June 2022

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 redacted version of

**Decision on Mr Yekatom's Request to Add an Individual to his Non-Privileged
Contact List**

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

The Office of the Prosecutor

Karim A. A. Khan
Mame Mandiaye Niang
Kweku Vanderpuye

Counsel for Alfred Yekatom

Mylène Dimitri
Thomas Hannis
Anta Guissé

Counsel for Patrice-Edouard Ngaïssona

Geert-Jan Alexander Knoops
Richard Omissé-Namkeamai
Marie-Hélène Proulx

Legal Representatives of Victims

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

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

Harry Tjonk

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER V of the International Criminal Court, in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaissona*, having regard to Articles 64(2), 67, and 68(1) of the Rome Statute, Regulations 99-101 of the Regulations of the Court, and Regulations 173-175 of the Regulations of the Registry, issues this ‘Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List’.

1. The Chamber recalls the standard and assessment criteria as previously set out,¹ as well as its latest decision on Mr Yekatom’s restrictions on contacts and communications in detention, including the procedural history set out therein (the ‘Sixth Restrictions Decision’).²
2. In the Sixth Restrictions Decision, the Chamber deferred its determination on the Yekatom Defence’s (the ‘Defence’) request to order the Registry to re-add [REDACTED], to Mr Yekatom’s non-privileged contact list (the ‘Individual’ and the ‘Request’, respectively),³ until it receives the views on the matter by the Office of the Prosecutor (the ‘Prosecution’).⁴
3. On 30 May 2022, the Prosecution provided its views on the Request (the ‘Prosecution Views’). It opposes the Request, arguing that ‘[s]everal factors militate against any mitigation of the current restrictions imposed on YEKATOM

¹ See Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention, 17 April 2020, ICC-01/14-01/18-485-Conf (public redacted version notified on 16 February 2021, ICC-01/14-01/18-485-Red) (the ‘First Restrictions Decision’), paras 16-18, 20.

² See Sixth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention, 20 May 2022, ICC-01/14-01/18-1420-Conf-Exp, confidential *ex parte*, only available to the Prosecution, the Yekatom Defence and the Registry (confidential redacted version notified the same day, ICC-01/14-01/18-1420-Conf-Red).

³ Yekatom Defence Response to the “Fifth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V”, 6 April 2022, ICC-01/14-01/18-1348-Conf-Exp, 19 April 2022, ICC-01/14-01/18-1366-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence, the Registry and the Prosecution (with confidential *ex parte* Annexes A and B, only available to the Yekatom Defence and the Registry, ICC-01/14-01/18-1366-Conf-Exp-AnxA and ICC-01/14-01/18-1366-Conf-Exp-AnxB) (public redacted version notified the same day, ICC-01/14-01/18-1366-Red), paras 17-21.

⁴ Sixth Restrictions Decision, ICC-01/14-01/18-1420-Conf-Red, paras 14-15, p. 9.

[...], including the re-addition of [the Individual] to the non-privileged contact list'.⁵

4. As previously held, the Chamber is mindful of Mr Yekatom's right to privacy and family life and the passage of time as a factor to be taken into account in balancing the need and proportionality of restrictions against the important right accorded to detained persons to have contact.⁶ It also takes note that the Individual recently signed an undertaking in which he acknowledges the rules applicable to non-privileged phone conversations with Mr Yekatom.⁷
5. However, the Chamber also notes the Prosecution's concerning reports that witnesses in the Central African Republic (the 'CAR') have been the target of attacks, threats, and interference,⁸ as well as the Registry's reports regarding the CAR's volatile security situation and the dire humanitarian circumstances.⁹ The Chamber is particularly alarmed that [REDACTED].¹⁰ It further takes note of the Prosecution's submissions that [REDACTED]¹¹ and [REDACTED].¹² In this context, it is also noted that Mr Yekatom has breached his contact restrictions on a number of occasions and that the Prosecution is in the middle of its evidence presentation, with a large number of witnesses known to Mr Yekatom still to be heard.

⁵ Prosecution's Views on the Second Defence Request regarding Restrictions on Contact for Mr Alfred Yekatom, ICC-01/14-01/18-1441-Conf-Exp, confidential *ex parte*, only available to the Prosecution (with confidential *ex parte* Annexes A, B and C, only available to the Prosecution, ICC-01/14-01/18-1441-Conf-Exp-AnxA, ICC-01/14-01/18-1441-Conf-Exp-AnxB and ICC-01/14-01/18-1441-Conf-Exp-AnxC) (confidential redacted version notified the same day, ICC-01/14-01/18-1441-Conf-Red), para. 2.

⁶ *See for example* First Restrictions Decision, ICC-01/14-01/18-485-Red, paras 16-18; Sixth Restrictions Decision, ICC-01/14-01/18-1420-Conf-Red, para. 14.

⁷ Annex to the Addendum to the "Yekatom Defence Response to the "Fifth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V", 6 April 2022, ICC-01/14-01/18-1348-Conf-Exp", 19 April 2022, ICC-01/14-01/18-1366-Conf-Exp, 20 April 2022, ICC-01/14-01/18-1371-Conf-Exp-AnxA, confidential *ex parte*, only available to the Yekatom Defence and the Registry.

⁸ Prosecution Views, ICC-01/14-01/18-1441-Conf-Red, para. 13.

⁹ *See for example* Eighth Periodic Report of the Registry on the Political and Security Situation in the Central African Republic, 25 May 2022, ICC-01/14-01/18-1434-Conf (with one confidential annex), para. 7.

¹⁰ Prosecution Views, ICC-01/14-01/18-1441-Conf-Exp, paras 14-17; Annexes A, B, C to the Prosecution Views, ICC-01/14-01/18-1441-Conf-Exp-Anx, ICC-01/14-01/18-1441-Conf-Exp-AnxB, and ICC-01/14-01/18-1441-Conf-Exp-AnxC.

¹¹ Prosecution Views, ICC-01/14-01/18-1441-Conf-Red, para. 15.

¹² Prosecution Views, ICC-01/14-01/18-1441-Conf-Red, para. 4.



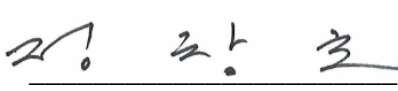
6. In light of these circumstances, and further recalling that the Individual had been removed from Mr Yekatom's non-privileged contact list by the Chief Custody Officer following an incident during which this individual recorded a conversation with Mr Yekatom,¹³ the Chamber considers that his exclusion from the list continues to be necessary and proportional, and should be maintained at this point. Accordingly, the Request is rejected. This is without prejudice to a renewed request should circumstances change in the future.
7. Lastly, the Chamber notes that the Prosecution Views have been filed confidential *ex parte*, only available to the Prosecution and the Registry, and that the confidential redacted version contains numerous redactions, which partly appear unnecessary at this stage. For the transparency of the proceedings, the Prosecution is therefore instructed to file a lesser redacted confidential version.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the Request; and

ORDERS the Prosecution to file a lesser redacted confidential version and a public redacted version of the Prosecution Views within one week of notification of this decision.

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

 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Péter Kovács</p>	 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Bertram Schmitt Presiding Judge</p>	 <hr style="width: 25%; margin: 0 auto;"/> <p>Judge Chang-ho Chung</p>
---	--	--

Dated 15 June 2022

At The Hague, The Netherlands

¹³ First Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V, 17 July 2020, ICC-01/14-01/18-592-Conf-Exp, confidential *ex parte*, only available to the Yekatom Defence and the Registry (confidential redacted version notified the same day) (with a confidential *ex parte* annex, available only to the Prosecution, the Yekatom Defence and the Registry), para. 16.