

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: 25 April 2024

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* Annex only available to the Yekatom Defence and
the Registry**

**Public Redacted Version of "Ninth Registry Report on the Implementation of the
Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V",
filed on 28 February 2024, ICC-01/14-01/18-2383-Conf-Red**

Source: Registry

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

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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, and as instructed by the Chamber on 26 February 2024,² the Registry hereby submits its report on the monitoring of Mr Yekatom’s non-privileged telephone calls since 15 August 2023.³

II. Procedural history

2. Pursuant to a series of decisions,⁴ the following restrictions on Mr Yekatom’s contacts are currently in place: (1) non-privileged phone calls with authorized

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 Email sent by Trial Chamber V to the Registry on 26 February 2024 at 09:58.

³ Registry, “Eight 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-Exp.

⁴ 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 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; Trial Chamber V, “Ninth Decision on Mr

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”); (2) non-privileged visits with authorized family members and other authorized individuals, 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.

III. Classification

3. In accordance with regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the present report and annex are classified as confidential, *ex parte* only available to the Yekatom Defence and the Registry, as: (1) reference is made to confidential decisions 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

4. For the purpose of the present report, the Registry has considered regulation 99(1)(i) of the RoC, and regulations 173, 174, and 175 of the Regulations of the Registry (“RoR”).

V. Submissions

In relation to regular reporting

5. In implementing the Chamber’s instructions in the “Ninth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“25

Yekatom’s Restrictions on Contacts and Communications in Detention” (“25 October 2023 Decision”), 25 October 2023, ICC-01/14-01/18-2165-Conf, paras. 17 and 19.

October 2023 Decision”),⁵ the Registry interpreted paragraph 19 as a reporting obligation only if there were “any incidents, significant developments, or challenges in relation to the implementation of the restrictions as soon as they arise”.⁶ However, following the Chamber’s email to the Registry on 26 February 2024,⁷ the Registry understands the Chamber expects the regular reporting to continue.⁸ The Registry will therefore continue to report every 6 months, unless otherwise ordered by the Chamber.

In relation to non-privileged telephone calls

6. In implementing the 25 October 2023 Decision,⁹ the Registry ceased random active monitoring of non-privileged telephone calls between Mr Yekatom and his non-privileged telephone contacts, since 25 October 2023. Mr Yekatom’s non-privileged telephone calls remain passively monitored following regulation 174 of the RoR.¹⁰ Passive monitoring only entails the recording and archiving of non-privileged telephone calls, and not the listening of telephone calls.

7. Independent of the Chamber’s decisions restricting Mr Yekatom’s contacts, the Acting Chief Custody Officer (“ACCO”) has monitored Mr Yekatom’s non-privileged telephone calls at random, pursuant to regulation 175(1) of the RoR. The Registry recalls that certain contact restrictions remain in place for Mr Yekatom, including that Mr Yekatom is not allowed to use obscure or coded

⁵ Trial Chamber V, “Ninth Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“25 October 2023 Decision”), 25 October 2023, ICC-01/14-01/18-2165-Conf, para. 19.

⁶ Trial Chamber V, 25 October 2023, para. 19.

⁷ Email sent by Trial Chamber V to the Registry on 26 February 2024 at 09:58.

⁸ Email sent by Trial Chamber V to the Registry on 26 February 2024 at 09:58, citing to Trial Chamber V, 11 November 2020 Decision, para. 33; Trial Chamber V, 25 October 2023 Decision, para. 19.

⁹ Trial Chamber V, 25 October 2023 Decision, para. 17.

¹⁰ *Ibid.*, para. 17.

language, or to mention his case.¹¹ In this context, and as instructed by the Chamber on 26 February 2024,¹² the Registry reports the following:

8. On 8 February 2024, Mr Yekatom called [REDACTED] (“8 February 2024 call” and “Interlocutor”). From the transcript of the 8 February 2024 call,¹³ Mr Yekatom said “[REDACTED]”, “[REDACTED]”, “[REDACTED]. [REDACTED]”, “[REDACTED]. [REDACTED]. [REDACTED].”. Mr Yekatom called the Interlocutor back and said “[REDACTED].”, “[REDACTED]”, “[REDACTED].”.
9. The Registry highlights that Mr Yekatom has access to his computer at the ICC Detention Centre¹⁴ as each detained person has a computer in his/her cell. This computer is strictly used for accessing the Privileged Defence Network. Use of the said computer falls under Regulation 97(1) of the Regulations of the Court; and it is further regulated by the Registry Policy on Computer Use and Case Related Materials,¹⁵ which restricts the use of the network to enable detained persons to view case related materials and evidence uploaded by their defence team.

¹¹ Trial Chamber V, 17 April 2020 Decision, para. 14 (v)(a).

¹² Email sent by Trial Chamber V to the Registry on 26 February 2024 at 09:58, in response to an Email sent by the Registry to Trial Chamber V on 21 February 2023 at 11:31.

¹³ Annex. The Registry clarifies that some parts of the transcript are transcripts of the conversation and other parts are summaries of the conversation.

¹⁴ 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.

¹⁵ Registry, “Policy on case related computer use and printing at the ICC Detention Centre”.

10. Following the conversation above, on 21 February 2024, the ACCO decided to remove the Interlocutor from Mr Yekatom's non-privileged telephone contact and visitors list due to concerns regarding the implementation of contact restrictions and informed Mr Yekatom accordingly.¹⁶



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

Dated this 25 April 2024

At The Hague, the Netherlands

¹⁶ Chief Custody Officer, Memorandum from the Chief Custody Officer to Mr Yekatom, "Retrait temporaire de [REDACTED] de la liste de vos contacts téléphoniques et de vos visiteurs", 21 February 2024.