

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-RoR220-02/22

Date: 8 July 2022

THE PRESIDENCY

Before: Judge Piotr **Hofmański**, President
Judge Luz del Carmen Ibàñez Carranza, First Vice-President
Judge Antoine Kesia-Mbe Mindua, Second Vice-President

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF
THE PROSECUTOR v. ALFRED ROMBHOT YEKATOM

Confidential

EX PARTE only available to the Registry and the Yekatom Defence

Request for leave to reply to the "Registry Observations pursuant to Regulation 220(4) of the Regulations of the Registry"

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants
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States' Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations
Section

INTRODUCTION

1. Pursuant to regulation 24(5) of the Regulations of the Court (“RoC”), the Defence for Mr Alfred Rombhot Yekatom (“Defence”) respectfully seeks leave to reply to the “Registry’s Observations pursuant to Regulation 220(4) of the Regulations of the Registry” issued on 5 July 2022 (“Observations”).¹
2. The present request challenges new issues raised in the Observations which the Defence could not have reasonably anticipated, namely the claim that Mr Yekatom’s family visits were not impacted by the scarcity of funds in the Trust Fund for Family Visits (“TFFV”), and the Registry’s assertion that Mr Yekatom “regularly” received self-paid visits from one of his partner.²

PROCEDURAL BACKGROUND

3. On 27 June 2022, the Defence publicly submitted its “Application for Judicial Review of the Registry Decision issued on June 17 2022” (“Application” and “Impugned Decision”, respectively).³ The Application respectfully requested the Presidency to order the Registry to support its project of a fundraising campaign in the Central African Republic (“CAR”) to receive donations to finance family visits due to the lack of available funds in the TFFV.
4. On 30 June 2022, the Registrar transmitted the appropriate documents to the Presidency (“Transmission”), filed as confidential *Ex Parte* only available to the Registry and the Defence, pursuant to regulation 220(3) of the Regulations of the Registry (“RoR”).⁴

¹ [ICC-RoR220-02/22-3-Conf-Exp](#).

² [ICC-RoR220-02/22-3-Conf-Exp](#), para. 8.

³ Mr Alfred Rombhot Yekatom, [Application for Judicial Review of the Registry Decision issued on the 17 June 2022](#), 27 June 2022, ICC-RoR220-02/22-1.

⁴ Registry, [“Transmission pursuant to Regulation 220\(3\) of the Regulations of the Registry”](#), 30 June 2022, ICC-RoR220-2-Conf-Exp.

5. On 5 July 2022, the Registrar filed their Observations in relation to the application for judicial review in accordance with regulation 220(4) of the RoR.⁵ The Observations are limited to the following three issues: (a) the substantial measures taken by the Registry to secure financing for family visits; (b) the need for a screening process for the Registry to agree to the request; and (c) the Defence's allegations against the Registry's neutrality.⁶

APPLICABLE LAW

Regulation 24 (5) – Regulations of the Court

Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated.

SUBMISSIONS

6. The Defence seeks leave to reply to the Registrar's assertion that the TFFV's financial situation has in no way prevented Mr Yekatom from receiving family visits.
7. *First*, the Registrar tries to put forth that, excluding the period in which family visits were impossible due to COVID-19, Mr Yekatom was *generally* granted his requests for funded family visits with only limited exceptions for reasons which *were not* related to the scarcity of funds in the TFFV. The Registrar explains that where requests were denied, such denials were not due to lack of funds but rather because they were inconsistent with the Court's policy.⁷
8. This assertion is erroneous. As a result, the Defence could not have reasonably anticipated the Registry to rely on it in its Observations. If given the opportunity

⁵ [ICC-RoR220-02/22-3-Conf-Exp](#).

⁶ [ICC-RoR220-02/22-3-Conf-Exp](#), para. 4.

⁷ [ICC-RoR220-02/22-3-Conf-Exp](#), para. 8.

to reply, the Defence would substantiate by providing specific written requests of visits that were partly denied due to lack of funds, despite after the additional donation to the TFFV referred to by the Registry.⁸

9. *Second*, the Registrar claims that Mr Yekatom is *regularly* visited by his partner and those visits are *all* self-paid.⁹
10. In addition to being completely inapposite and unfounded, this allegation is a new issue raised by the Registrar which the Defence could not have reasonably anticipated. If this leave to reply is granted, the Defence would provide the rare number and limited length of the self-paid visits Mr Yekatom has received since the beginning of his incarceration, information which would both refute the assertion that they are “regular” and provide the fuller context of the issue to the Presidency for its adjudication of the Application.
11. Indeed, the fact that one of Mr. Yekatom’s partner visited him, without any of his twelve children, since the moment when family visits were made possible after COVID-19 does not justify the Registry’s refusal to support its project of a fundraising campaign in the CAR. The Defence notes with concern that, by raising such an argument, the Registry seems to divert from the core issue and instead attempts to show that Mr Yekatom is sufficiently visited by his family and that his visits are in no way impacted by the scarcity of funds in the TFFV.
12. If leave to reply is granted, the Defence would substantiate on why the Registry’s arguments should not have any impact on the final determination of the Request by the Presidency.
13. In light of the above, the Defence respectfully submits this request for leave to reply should be granted.

⁸ [ICC-RoR220-02/22-3-Conf-Exp](#), para. 7.

⁹ [ICC-RoR220-02/22-3-Conf-Exp](#), para. 8.

CONFIDENTIALITY

14. Pursuant to regulation 23*bis* (1) and (2) of the RoC, regulation 220(2) of the RoR this leave to reply is filed on a confidential *Ex Parte* basis only available to the Defence and the Registry as it responds to Observations bearing the same classification. However, the Defence contends there are no other reasons justifying this request for leave to reply to be classified as confidential *Ex Parte* and therefore do not oppose its reclassification as public.

RELIEF SOUGHT

15. In light of the above, the Defence respectfully requests the Presidency to:

GRANT the Defence leave to reply.

RESPECTFULLY SUBMITTED ON THIS 8th DAY OF JULY 2022¹⁰



Me Mylène Dimitri
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¹⁰ The Defence thanks Legal Intern Ms Alexandra Baer for her precious assistance in the drafting of this filing.