

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 17 July 2020

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 NGAÏSSONA***

CONFIDENTIAL

***EX PARTE* only available to the Yekatom Defence, the Office of the Prosecutor,
and the Registry**

**Confidential Redacted Version of "First Registry Report on the Implementation of
the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V",
filed on 17 July 2020**

Source: Registry

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

The Office of the Prosecutor

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Legal Representatives of the Applicants

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**Unrepresented Applicants
(Participation/Reparation)**

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

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REGISTRY

Registrar

Mr Peter Lewis

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**Victims Participation and Reparations
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I. Introduction

1. Following the “Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“17 April 2020 Decision”)¹ issued by Trial Chamber V (“Trial Chamber” or “Chamber”) on 17 April 2020, in which the Registry is ordered to report on the implementation of the restrictions on contact of Alfred Yekatom (“Defence” or “Mr Yekatom”) every three 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 April 2020. The Registry informs the Chamber of one active monitoring telephone incident.
2. On 1 July 2020,² the Registry informed the Chamber *via* email of one telephone monitoring incident, and the Registry was instructed to provide its substantive observations on this incident in its next report on 17 July 2020.³

II. Procedural history

3. On 17 April 2020, the Chamber issued its 17 April Decision,⁴ deciding, *inter alia*, to maintain the restrictions on Mr Yekatom’s contacts put in place by the Pre-Trial Chamber.⁵ The Chamber also ordered the Registry to submit reports on the implementation of the restrictions and any violation thereof, together with confidential redacted versions of said reports, every three months.⁶

¹ Trial Chamber V, “Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention”, 17 April 2020, ICC-01/14-01/18-485-Conf-Exp, (“17 April 2020 Decision”), para. 13.

² Email from the Judicial Coordinator of the Office of Director of Judicial Services to Trial Chamber V Communications, “Early warning on incident”, 1 July 2020, at 13:58.

³ Email from Trial Chamber V to the Judicial Coordinator of the Office of Director of Judicial Services, reply to “Early warning on incident”, 2 July 2020, at 15:39.

⁴ 17 April 2020 Decision.

⁵ 17 April 2020 Decision, paras. 13, 23, 31. The restrictions in place are enumerated in paragraph 13.

⁶ *Ibid.*, paras. 22-23, and 32.

4. On 5 May 2020, the Chamber issued its "Decision on the Yekatom Defence's Request to Modify the Active Monitoring Restriction" ("5 May Decision"),⁷ rejecting a Defence request to modify the restrictions on contact for Mr Yekatom.⁸
5. On 1 June 2020, the Chamber issued its "Decision Recalling the Reporting Procedure for the Review of Restrictions" ("1 June Decision"), recalling that the Registry shall file reports every three months on the implementation of the restrictive measures for Mr Yekatom, and immediately inform the Chamber of any violation of the applicable restrictions or other significant development.⁹
6. On 1 July 2020, the Registry urgently informed the Chamber, by way of email,¹⁰ of a 29 June 2020 incident during the active monitoring of Mr Yekatom's telephone calls.

III. Classification

7. In accordance with regulation 23 *bis* (2) of the Regulations of the Court ("RoC"), the present report is classified as confidential *ex parte* only available to the Defence and the Registry, as it refers to filings of the same classification, and contains information on Mr Yekatom's private life. A confidential redacted version available to the Office of the Prosecutor will be filed simultaneously.

IV. Applicable law

⁷ Trial Chamber V, "Decision on the Yekatom Defence's Request to Modify the Active Monitoring Restriction", 5 May 2020, ICC-01/14-01/18-507-Conf-Exp.

⁸ *Ibid.*, paras. 10-11.

⁹ Trial Chamber V, "Decision Recalling the Reporting Procedure for the Review of Restrictions", 1 June 2020, ICC-01/14-01/18-540-Conf.

¹⁰ Email from the Registry to Trial Chamber V, "Early warning on incident", 1 July 2020, at 13:58.

8. For the purpose of the present submission, the Registry has considered regulations 99(1)(h), (i) and 101 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 179, 180, 183 and 185 of the Regulations of the Registry ("RoR").

V. Submissions

Non-privileged telephone calls

9. As ordered in the 17 April 2020 Decision,¹¹ the Registry offers Mr Yekatom two 90 minute time periods a week for his non-privileged telephone calls. In implementing the restrictions on contact, the Registry actively monitors Mr Yekatom's telephone calls at random, as frequently as possible. The Registry hereby reports on the one incident.

Incident occurring during active monitoring

10. Pursuant to the 17 April 2020 Decision, Mr Yekatom is only allowed to communicate with individuals duly verified by the Registry. During a telephone call on 29 June 2020, Mr Yekatom's interlocutor stated that he was recording part of their conversation in order to play it to a third person, not on Mr Yekatom's contact list.
11. According to the transcript prepared by the Language Services Section ("LSS"), Mr Yekatom's interlocutor stated "*à présent j'enregistre votre voix quand vous parlez là, je suis en train d'enregistrer votre voix donc je vais lui balancer*" and later on during the conversation the interlocutor said "*j'ai envoyé votre voix par Messenger à [REDACTED]*".¹²
12. The Chief Custody Officer ("CCO") has determined that the third person "[REDACTED]" was not on Mr Yekatom's non-privileged telephone contact

¹¹ 17 April Decision, para. 30.

¹² Annex, lines 6, 62.

list. Thus, by the interlocutor recording a message to relay a message to a third party, the Chamber's order would have been violated.

13. The Registry notes, however, that the substance of the recorded conversation appears to refer to private matters and thus the substance of the conversation appears not to have breached the Chamber's order.

14. Mr Yekatom is aware of his restrictions on contacts and communications, and is responsible for ensuring that his interlocutors comply with the restrictions on his contact, which has been reminded in various internal CCO memorandums. According to the transcript, during the conversation Mr Yekatom appears to have asked his interlocutor to remind the third person about his restrictions on contacts, and that the individual needs to be vetted before Mr Yekatom may be allowed to call this third party.¹³

15. Furthermore, on 15 August 2019, the CCO notified a memorandum to all detained persons reminding them that during non-privileged telephone conversations their interlocutors are not allowed to put their phone on speakerphone. This is to prevent non-authorized telephone contacts to listen to telephone conversations. The objective of this reminder memorandum, in addition to regulation 173 of the RoR, is that detained persons should only be communicating messages to individuals who are vetted and approved by the Registry.

16. For the reasons mentioned above, the CCO decided to remove the interlocutor from Mr Yekatom's list of non-privileged contacts. A written notification to Mr Yekatom was provided on 1 July 2020, in accordance with internal DS procedure.

Non-privileged Visits, incoming and outgoing mail

¹³ Annex, lines 7, 9 and 11.

17. Pursuant to the restrictions on contact, 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.¹⁴ Any written correspondence or packages that are sent or received pursuant to regulations 168, 169 and 170 of the RoR shall also be closely monitored in accordance with the Mr Yekatom's restrictions on contact.

18. However, following the COVID-19 Temporary Measures in place at the DC,¹⁵ all incoming and outgoing mail and all visits to the DC were suspended during the reporting period.



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

Dated this 17 July 2020

At The Hague, The Netherlands

¹⁴ 17 April Decision, paras. 13, 23, 31.

¹⁵ Registry, "Registry Observations on "Yekatom Defence Request to Modify the Restrictions on Contacts and Communications to Eliminate Random Active Monitoring during Coronavirus pandemic", (ICC-01/14-01/18-458-Conf-Exp) and Report on Active Monitoring", 30 March 2020, ICC-01/14-01/18-467-Conf-Exp, para. 15; Registry, "Registry Update on Detention Centre COVID-19 Measures", 3 July 2020, ICC-01/14-01/18-578-Conf.