

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **27 September 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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Public

**Public Redacted Version of “Request to amend the current contact
restrictions of Mr. Yekatom based on a Proposed agreement between the
Prosecution and the Yekatom Defence”**

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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INTRODUCTION

1. The Yekatom Defence (the “Defence”) hereby respectfully requests Trial Chamber V (the “Chamber”) to modify the current contact restrictions of Mr Yekatom based on a proposed agreement between the Defence and the Prosecution concerning Mr Yekatom and his son, [REDACTED] (the “Proposed Agreement”).
2. The Defence seeks the Chamber’s leave to modify the current contact restrictions by adding [REDACTED], on a provisional basis and subject to certain conditions discussed with the Prosecution, to the list of non-privileged contacts of Mr Yekatom.

PROCEDURAL HISTORY

3. On 17 July 2020, the “First Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Chamber Trial V” was issued.¹ This report indicated that as of 1 July 2020 an interlocutor of Mr Yekatom, [REDACTED] was removed from Mr Yekatom’s list of non-privileged contacts by the Chief Custody Officer following an incident.²
4. On 19 April 2022, the Defence requested the Chamber to allow the re-addition of Mr Yekatom’s son to the list of non-privileged contacts in “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” (the “Request”).³

¹ ICC-01/14-01/18-592-Conf-Exp. Confidential Redacted Version available: [ICC-01/14-01/18-592-Conf-Red.](#)

² ICC-01/14-01/18-592-Conf-Exp, paras. 15-16.

³ ICC-01/14-01/18-1366-Conf-Exp, para. 17. Public Redacted Version available: [ICC-01/14-01/18-1366-Red.](#)

5. On 20 May 2022, in its “Sixth Decision on Mr Yekatom’s Restrictions on Contacts and Communications” the Chamber deferred its determination on the Request until it received the views on the matter by the Prosecution.⁴
6. On 30 May 2022, the Prosecution filed on a confidential *ex parte* basis, its views of the Request to the Chamber, in the “Prosecution’s Views on the Second Defence Request regarding Restrictions on Contact for Mr Alfred Yekatom” (the “Prosecution’s Views”). The Defence is only privy to a Confidential Redacted version of the Prosecution’s Views.⁵
7. On 15 June 2022, after receiving the Request and the Prosecution’s Views, the Chamber issued its “Decision on Mr Yekatom’s Request to Add an Individual to his Non-Privileged Contact List” (the “Decision”) which rejected the request to add [REDACTED] to the non-privileged contact list of Mr Yekatom.⁶ This decision was made “without prejudice to a renewed request should circumstances change in the future”.⁷
8. On 23 September 2022, the present Proposed Agreement was presented to the Chamber by email following *inter partes* discussions between the Defence and the Prosecution.⁸
9. On 26 September 2022, the Chamber requested that the Proposed Agreement be formally filed on the record.⁹

⁴ ICC-01/14-01/18-1420-Conf-Exp, paras. 14-15. Public Redacted Version available: [ICC-01/14-01/18-1420-Red2](#).

⁵ Lesser redacted confidential version available to the Defence on 22 June 2022, [ICC-01/14-01/18-1441-Conf-Red2](#). Public Redacted Version available : [ICC-01/14-01/18-1441-Red3](#).

⁶ ICC-01/14-01/18-1460-Conf-Exp. Public Redacted Version available: [ICC-01/14-01/18-1460-Red2](#).

⁷ ICC-01/14-01/18-1460-Conf-Exp, para 6.

⁸ Email from the Yekatom Defence to Trial Chamber V and the Prosecution sent on 23 September 2022 at 18:36.

⁹ Email from Trial Chamber V to the Yekatom Defence and the Prosecution sent on 26 September 2022 at 11:05.

SUBMISSIONS

10. Under the current restrictions, as confirmed by the Chamber's Decision, [REDACTED] is not allowed to be added to the non-privileged contact list of Mr Yekatom. This decision was made "without prejudice to a renewed request should circumstances change in the future".¹⁰
11. Following *inter partes* discussions with the Prosecution on this matter, both parties have come to a compromise to take into account on the one hand, the preservation of Mr Yekatom's right to family life and, on the other hand, the Prosecution's concerns towards victims and witnesses. The Defence therefore respectfully seeks the Chamber's leave to modify the current restrictions with regard to [REDACTED] and understands that the Prosecution does not oppose this agreement.
12. To preserve the family ties between Mr Yekatom and his son, the Defence proposes to allow [REDACTED] to have an actively monitored phone call with his father once a month for a duration of 30 minutes or twice a month for a duration of 15 minutes.
13. To ensure that the Registry is in a position to actively monitor the entire conversation with a Sango interpreter, the Registry would be informed ahead of time of when the call would take place. This would enable the Registry to immediately end the call and report any to the Chamber in case of any violation of the contact restrictions.

¹⁰ [ICC-01/14-01/18-1460-Conf-Exp](#), para. 6.

14. The Prosecution gave their consent to the Proposed Agreement subject to the following conditions:

(1) if the Registry were to report a contact restriction violation at any point and regarding anyone or any circumstance, the Prosecution will withdraw their consent to the agreement; and

(2) in such circumstances, the Prosecution reserves the right to request appropriate modifications to the terms and conditions of Mr Yekatom's detention, including the suspension of contact with his son.¹¹

15. This Proposed Agreement is provisional. Indeed, the Defence and the Prosecution agreed to revisit the issue after year end and/or once most of the Prosecution witnesses will have testified.

CONCLUSION

16. In light of the above, considering the Defence's and the Prosecution's preoccupations, the Defence is of the view that this Proposed Agreement is fair and proportionate to both the Defence's and Prosecution's respective concerns. [REDACTED] should therefore be, provisionally and under the suggested conditions, added to Mr Yekatom's non-privileged contact list.

CONFIDENTIALITY

17. This Proposed Agreement is filed on a confidential *ex parte* basis only available to the Defence, the Prosecution and the Registry as it reveals the identity of Mr Yekatom's son. A public redacted version will be filed simultaneously.

¹¹ Email from the Prosecution to the Yekatom Defence sent on 20 September 2022 at 9:03, available upon request.

RELIEF SOUGHT

18. In light of the above, the Defence respectfully requests Trial Chamber V to:

GRANT the Defence Request; and

ORDER the Registry to add [REDACTED] to the list of non-privileged contacts of Mr Yekatom following the above modalities described in paragraphs 12 to 15.

RESPECTFULLY SUBMITTED ON THIS 27th DAY OF SEPTEMBER 2022



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands