

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-RoR220-03/23**

Date: **13 September 2023**

THE PRESIDENCY

Before: Judge Piotr Hofmański, President
Judge Luz del Carmen Ibáñez 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 YEKATOM AND PATRICE-EDOUARD NGAÏSSONA**

Confidential

EX PARTE only available to the Defence for Mr Yekatom and the Registry

**Decision on the ‘Application for Judicial Review of Registrar’s Decision
of 23 May 2023’, dated 31 May 2023 (ICC-RoR220-03/23-1-Conf-Exp)**

Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**The Office of the Prosecutor****Counsel for Mr Yekatom**

Ms Mylène Dimitri

Ms Anta Guissé

Ms Alexandra Baer

Legal Representatives of the Victims**Legal Representatives of the Applicants****Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of Public Counsel for Victims****The Office of Public Counsel for the
Defence****States' Representatives****Amicus Curiae****REGISTRY**

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section**Victims and Witnesses Unit****Detention Section**

Mr Harry Tjonk

**Victims Participation and Reparations
Section****Other**

The Presidency of the International Criminal Court (the 'Court') has before it the application filed by Mr Alfred Yekatom ('Mr Yekatom') on 31 May 2023, seeking judicial review pursuant to regulation 220 of the Regulations of the Registry (the 'Regulations') of a decision of the Registrar issued on 23 May 2023 (the 'Application').¹

I. PROCEDURAL HISTORY

1. On 30 March 2023, after a request was made by Mr Yekatom to receive private visits on four consecutive days, the Acting Chief Custody Officer (the 'CCO') informed Mr Yekatom, via email, that 'a visit of multiple days never exists of only private visits' (the 'CCO's Email').²
2. On 13 April 2023, Mr Yekatom submitted a complaint to the CCO pursuant to regulations 217 and 218 of the Regulations (the 'Complaint'),³ arguing that the CCO abused his power by refusing to accommodate private visits on multiple consecutive days.⁴ He submitted that, according to regulation 185(2) of the Regulations, detained persons have the right to receive private visits and that regulation 180(1) of the Regulations and section XI of the Detention Centre Policy on Family Visits pursuant to regulation 179(1) of the Regulations of the Registry (the 'Family Visits Policy') provide for certain restrictions to this right.⁵ Mr Yekatom argued that since the CCO relied on an exception that was not foreseen by the legal texts, he abused his power.⁶ In view of this, Mr Yekatom requested the CCO to formally withdraw the limitation to private visits provided for in the CCO's Email and ensure that Mr Yekatom's future requests for private visits will not be refused on the sole basis that they would take place on multiple consecutive days.⁷

¹ Defence for Mr Alfred Yekatom, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Application for Judicial Review of Registrar's Decision of 23 May 2023, 31 May 2023, ICC-RoR220-03/23-1-Conf-Exp, para. 1.

² Email from the Detention Centre to the Defence for Mr Yekatom, 30 March 2023 at 14:57, ICC-RoR220-03/23-1-Conf-Exp-AnxA, p. 2, *annexed to* Application, ICC-RoR220-03/23-1-Conf-Exp.

³ Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Complaint, ICC-RoR220-03/23-2-Conf-AnxI, pp. 4-6, *annexed to* Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Transmission pursuant to Regulation 220(3) of the Regulations of the Registry, 5 June 2023, ICC-RoR220-03/23-2-Conf-Exp (the 'Transmission').

⁴ Complaint, ICC-RoR220-03/23-2-Conf-AnxI, p. 5.

⁵ Complaint, ICC-RoR220-03/23-2-Conf-AnxI, p. 5.

⁶ Complaint, ICC-RoR220-03/23-2-Conf-AnxI, p. 5.

⁷ Complaint, ICC-RoR220-03/23-2-Conf-AnxI, pp. 4-6.

3. On 28 April 2023, the CCO rejected the Complaint as unjustified (the 'CCO Decision').⁸ The CCO considered that while the Court's legal framework provides for the possibility for detained persons to receive private visits, access to such visits is not an unlimited entitlement and the CCO, to whom the day-to-day management of the Detention Centre is delegated pursuant to regulation 90(2) of the Regulations of the Court, can determine 'how many, when and how long private visits can be accommodated'.⁹ The CCO stated that the practice of the Detention Centre is to accommodate 'one half day of private visit, every 3-4 days' (the 'Practice on Private Visits').¹⁰ The CCO explained that in granting private visits, he must strike a careful balance between the need to maintain family links with a spouse or partner and the need to ensure security and good order at the Detention Centre, considering that private visits, as opposed to regular visits, are not conducted within the sight and hearing of the custody officers and video surveillance.¹¹ The CCO concluded that the Practice on Private Visits goes beyond the minimum international standards and detention practices of most European States.¹²
4. On 8 May 2023, Mr Yekatom submitted a request for review of the CCO Decision to the Registrar, submitting that the CCO omitted to address the argument raised in the Complaint that receiving private visits was a right of detained persons, and that the CCO could not refuse to accommodate such visits solely because they would take place on multiple consecutive days (the 'Request for Review').¹³ Mr Yekatom argued that regulation 185 of the Regulations provides only for one restriction to private visits, namely that permission for such visits can be refused for security reasons, in accordance with regulation 180 of the Regulations, and the sole fact that private visits are organised on multiple consecutive days was not a security risk.¹⁴ Mr Yekatom noted that, in any event, the CCO did not base his decision to refuse permission to private visits on security reasons, nor was this refusal based on paragraph 42 of the Family Visits Policy, which provides that requests for private visits are subject to the demands of the daily schedule

⁸ Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, CCO Decision, ICC-RoR-03/23-2-Conf-Exp-AnxI, pp. 13, *annexed to* Transmission, ICC-RoR220-03/23-2-Conf-Exp.

⁹ CCO Decision, ICC-RoR-03/23-2-Conf-Exp-AnxI, p. 11.

¹⁰ CCO Decision, ICC-RoR-03/23-2-Conf-Exp-AnxI, pp. 11-12.

¹¹ CCO Decision, ICC-RoR-03/23-2-Conf-Exp-AnxI, pp. 11-12.

¹² CCO Decision, ICC-RoR-03/23-2-Conf-Exp-AnxI, p. 13.

¹³ Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Request for Review, ICC-RoR220-03/23-2-Conf-Exp-AnxII, paras 12-14, 19, 24, *annexed to* Transmission, ICC-RoR220-03/23-2-Conf-Exp.

¹⁴ Request for Review, ICC-RoR220-03/23-2-Conf-Exp-AnxII, paras 15-18.

of the Detention Centre, the facilities and the staff available.¹⁵ Mr Yekatom also recalled that private visits on four consecutive days were granted to him in 2019 and that visits were suspended between March 2020 and July 2021 because of the COVID-19 pandemic, demonstrating that the Practice on Private Visits is not an established practice, but rather, constitutes an abuse of power by the CCO.¹⁶ Finally, Mr Yekatom stressed that, contrary to the assertion made in the CCO Decision, the Practice on Private Visits does not go beyond European and international detention standards, and that the CCO disregarded his personal situation.¹⁷

5. On 23 May 2023, the Registrar issued a decision dismissing the Request for Review (the 'Impugned Decision').¹⁸ He considered, *inter alia*, that: regulation 180(1) of the Regulations is not applicable as it is limited to the question of whether permission for private visit is to be granted;¹⁹ the determination of the frequency of private visits falls within the scope of the CCO's responsibilities under regulation 187(1) of the Regulations;²⁰ and the Practice on Private Visits is based on relevant security considerations.²¹
6. On 31 May 2023, Mr Yekatom filed the present Application for judicial review of the Impugned Decision by the Presidency pursuant to regulation 220(1) of the Regulations.²² On 5 June 2023, the Registrar transmitted the supporting documents to the Presidency, in accordance with regulation 220(3) of the Regulations.²³ The Registrar did not submit any observations pursuant to regulation 220(4) of the Regulations.

II. IMPUGNED DECISION

7. In the Impugned Decision, the Registrar notes that the Application is premised on the qualification of private visits as a right that may only be subject to certain limitations strictly defined in regulation 180(1) of the Regulations.²⁴ The Registrar considers that the

¹⁵ Request for Review, ICC-RoR220-03/23-2-Conf-Exp-AnxII, paras 18, 21.

¹⁶ Request for Review, ICC-RoR220-03/23-2-Conf-Exp-AnxII, paras 22, 24.

¹⁷ Request for Review, ICC-RoR220-03/23-2-Conf-Exp-AnxII, paras 25-29.

¹⁸ Registrar, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Impugned Decision, 23 May 2023, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 28.

¹⁹ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 22.

²⁰ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 26.

²¹ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 27.

²² Application, ICC-RoR220-03/23-1-Conf-Exp, para. 1.

²³ Transmission, ICC-RoR220-03/23-2-Conf-Exp, para. 2.

²⁴ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, paras 18-21.

scope of regulation 180(1) of the Regulations is limited to the question of whether permission for a visit is to be granted, which is not at issue in the case at hand, since permission for private visits *has* been granted to Mr Yekatom, just not on consecutive days.²⁵ Instead, the issue is whether the limitation imposed by the CCO is permissible under the applicable legal framework.²⁶

8. The Registrar recalls that, pursuant to regulation 100(3) of the Regulations of the Court, the conditions for visits as well as restrictions and supervision necessary in the interests of the administration of justice or for the maintenance of the security and good order of the Detention Centre must be set out in the Regulations of the Registry.²⁷ Noting that no specific provision of the Regulations addresses the issue of the frequency of private visits, the Registrar considers that this determination must be considered as falling within the scope of the CCO's general responsibility under regulation 187(1) of the Regulations, notably in relation to the secure custody of all detained persons and maintenance of discipline and good order within the Detention Centre.²⁸ The Registrar further notes that paragraphs 42 and 44 of the Family Visits Policy are relevant in that they condition private visits to, *inter alia*, the demands of the daily schedule of the Detention Centre, the facilities and the staff available.²⁹
9. The Registrar considers that the Practice on Private Visits, which justified the refusal of Mr Yekatom's request for private visits on consecutive days, is based on relevant security considerations, notably the need for a regular supervision of detained persons, as required by regulation 183(1) of the Regulations.³⁰ In light of this, he dismisses the Request for Review.³¹

III. THE APPLICATION

10. Mr Yekatom requests the Presidency to: (i) quash the Impugned Decision; (ii) find that the Registrar erred in his interpretation of regulation 180(1) of the Regulations; (iii) confirm that limitations to private visits should be founded exclusively on regulation

²⁵ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, paras 20, 22.

²⁶ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 22.

²⁷ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 24.

²⁸ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, paras 25-26.

²⁹ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 26.

³⁰ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 27.

³¹ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 28.

180(1) of the Regulations or section XI of the Family Visits Policy; and (iii) dismiss the Practice on Private Visits limiting private visits to half a day, every three to four days.³²

11. First, Mr Yekatom notes that he requested private visits on four consecutive days and that one of these requests was denied.³³ He submits that, contrary to the Registrar's assertion, in denying this request, the CCO and the Registrar were bound by regulation 180(1) of the Regulations.³⁴ Mr Yekatom submits, therefore, that the Registrar, in reaching the Impugned Decision, failed to take into account that a request for private visit was rejected by the CCO, and took into account an irrelevant factor, namely that the rejected private visit was on a consecutive day with other granted private visits.³⁵
12. Second, Mr Yekatom submits that the Registrar erred in law by referring to regulation 187 of the Regulations, as opposed to regulation 180(1), arguing that a norm which sets out responsibilities of a general nature cannot supersede a norm that regulates private visits specifically.³⁶ He submits that both regulations 180(1) and 185(2) of the Regulations are drafted in such a way that detained persons shall be granted visits and that any possible limitations to private visits are exhaustively set forth in regulation 180(1) of the Regulations.³⁷ Mr Yekatom avers that the denial of the private visit and blanket ban of consecutive private visits were neither based on these limitations, nor on security concerns, as alleged in the Impugned Decision.³⁸ Instead, the Practice on Private Visits is a measure put in place to arbitrarily deny private visits.³⁹ Mr Yekatom further submits that the Impugned Decision fails to explain why consecutive private visits present a risk, and recalls that private visits were organised on consecutive days in the past.⁴⁰
13. Third, Mr Yekatom submits that the Registrar failed to take into account the submissions in the Request for Review by which he highlighted the practices in other countries that allow private visits on consecutive days and the unique circumstances of detained persons

³² Application, ICC-RoR220-03/23-1-Conf-Exp, paras 2-3, 41, 43.

³³ Application, ICC-RoR220-03/23-1-Conf-Exp, para. 19.

³⁴ Application, ICC-RoR220-03/23-1-Conf-Exp, para. 19.

³⁵ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 19-20, 22.

³⁶ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 23, 30.

³⁷ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 21-22,

³⁸ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 24-25.

³⁹ Application, ICC-RoR220-03/23-1-Conf-Exp, para. 26.

⁴⁰ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 27-29.

at the Detention Centre, in terms of distance visitors have to travel to visit, the time commitment and the costs incurred for this purpose.⁴¹

14. Fourth, Mr Yekatom argues that the Practice on Private Visits is not an established practice of the Detention Centre, notably because he has been granted four days of consecutive private visits in the past, but, rather, constitutes an abuse of power on the part of the CCO.⁴² He submits that the Impugned Decision fails to address the argument that Mr Yekatom contests the existence of such a practice and that the Registrar took account irrelevant factors and failed to act with procedural fairness.⁴³

IV. DETERMINATION OF THE PRESIDENCY

A. Standard for judicial review

15. The Presidency recalls that the judicial review of decisions of the Registrar concerns the propriety of the procedure by which the latter reached a particular decision and the outcome of that decision. It involves a consideration of whether the Registrar has: acted without jurisdiction, committed an error of law, failed to act with procedural fairness, acted in a disproportionate manner, taken into account irrelevant factors, failed to take into account relevant factors, or reached a conclusion which no reasonable person who has properly applied his or her mind to the issue could have reached.⁴⁴
16. In respect of applicable law, regulation 100(3) of the Regulations of the Court provides that '[t]he relevant conditions for visits as well as restrictions and supervision that may be necessary in the interests of the administration of justice or for the maintenance of the security and good order of the detention centre shall be set out in the Regulations of the Registry'.

⁴¹ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 31-33.

⁴² Application, ICC-RoR220-03/23-1-Conf-Exp, paras 34-39.

⁴³ Application, ICC-RoR220-03/23-1-Conf-Exp, paras 34-35, 40.

⁴⁴ The standard of judicial review was defined by the Presidency in its [Decision on the Application to Review the Registrar's Decision Denying the Admission of Mr Ernest Midagu Bahati to the list of Counsel](#), 20 December 2005, ICC-RoC72-02/05, para. 16; and supplemented in its Decision on the application to review the decision of the Registrar denying [REDACTED] privileged visits with Mr Lubanga Dyilo, under regulation 221 of the Regulations of the Registry, 27 November 2006, ICC-01/04-01/06-731-Conf, para. 24. *See also* Presidency, [Reasons for the 'Decision on the "Application for Review of Decision of the Registrar's Division of Victims and Counsel dated 2 January 2008 not to Admit Prof. Dr. Sluiter to the List of Counsel"'](#), 10 July 2008, ICC-RoC72-01/08-10, para. 20; Presidency, [Decision on the application to review the decision of the Registrar denying the admission of Ms Magdalena Ayoade to the list of experts](#), 6 August 2009, ICC-RoR56-01/09-2, para. 11.

17. Regulation 180 of the Regulations entitled '[c]riteria for granting permission for a visit' provides, in relevant part, the following:

1. Permission for visits other than those by counsel, assistants to counsel entitled to legal privilege, diplomatic or consular representatives, representatives of the independent inspecting authority, or representatives of the Registry, a Chamber or the Presidency shall be granted, unless an order of the Chamber has been issued in accordance with regulation 101 of the Regulations of the Court, the detained person has refused to see the visitor, pursuant to regulation 100, sub-regulation 2 of the Regulations of the Court, or the Registrar or the Chief Custody Officer has reasonable grounds to believe that
 - a) The detained person or the visitor may be attempting to:
 - (i) Arrange an escape;
 - (ii) Interfere with or intimidate a witness;
 - (iii) Interfere with the administration of justice; or
 - (iv) Otherwise disturb the maintenance of the security and good order of the detention centre;
 - b) The visit jeopardises the public safety or the rights or freedom of any person; or
 - c) The purpose of the visit is to obtain information which may be subsequently reported in the media.

18. Regulation 185(2) of the Regulations provides that '[a]fter having spent one month in the detention centre, a detained person shall be granted private visits upon request, subject to regulation 180, sub-regulation 1'.

19. Regulation 187(1) of the Regulations provides that the CCO 'shall be responsible for the secure custody of all detained persons, for their safe and humane treatment, for the safeguarding of their rights as determined by the Court and for the maintenance of discipline and good order within the detention centre'.

B. Merits

20. The Presidency recalls that while the Court's legal framework provides for the possibility of detained persons receiving private visits, it also imposes limitations on such visits, based, notably, on the need to ensure the security of the Detention Centre.⁴⁵ Regulation 185(2) of the Regulations specifies that permission for private visit is subject to

⁴⁵ Presidency, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, Decision on the 'Demande d'examen judiciaire de la décision par le Greffe le 14 September 2021', dated 22 September 2021 (ICC-RoR220-05/21-1-Conf-Exp), 31 March 2022, ICC-RoR220-05/21-3-Conf-Exp, para. 17.

regulation 180(1) of the Regulations, which, in turn, establishes grounds on which visits to detained persons may be refused. Regulation 180(1)(a)(iv), in particular, specifies that visits may be denied if the Registrar or the CCO has reasonable grounds to believe that the detained person or the visitor may be attempting to disturb the maintenance of the security and good order of the Detention Centre.

21. The scope of regulations 185(2) and 180(1) of the Regulations concern only the grounds for refusing to grant a private visit. The Presidency sees no error in the Impugned Decision's finding that, in the present circumstances, permission for private visits *has* been granted, simply not for consecutive days.⁴⁶ The Presidency considers that the Application erroneously characterises the issue as being related to the rejection of a private visit, when, in reality, it concerns the modalities of private visits – in particular the permitted frequency of such visits. Accordingly, what is disputed at present is whether the Court's legal framework allows a restriction of the frequency of such visits, including by relying on an alleged internal practice that accommodates private visits only for half a day every 3-4 days.
22. The Presidency observes that the only modality of private visits regulated in the Court's legal texts concerns the availability of a room. Other obvious issues of modalities, such as the frequency and duration of such visits, are not regulated. Some further modalities and procedures applying to private visits are set out in section XI of the Family Visits Policy, although, again, no rules concerning the frequency or duration of visits are established. Although the frequency of private visits is not established in the legal texts, the CCO and the Registrar must necessarily have discretion to put in place modalities for the regulation of private visits which take into account the security and order of the Detention Centre. Otherwise, such visits could take place in an entirely unfettered manner. The Presidency recalls that pursuant to regulation 90 of the Regulations of the Court, the Registrar is responsible for the security and order of the Detention Centre and that the day-to-day fulfilment of these functions are delegated to the CCO, who is responsible, pursuant to regulation 187(1) of the Regulations, for the secure custody of all detained persons, and for the maintenance of discipline and good order within the Detention Centre. The Family Visits Policy also expressly indicates that private visits shall be granted, 'taking into account the demands of the daily schedule of the ICC

⁴⁶ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 22.

Detention Centre, the facilities and the staff available'. These provisions make clear that application of modalities governing the frequency and duration of visits form part of the general discretion of the CCO and the Registrar. The application of such modality is not to be equated to a private visit having been denied. Accordingly, the Presidency sees no error in the Impugned Decision's overall legal characterisation of the matter.

23. Nonetheless, the CCO and the Registrar must exercise their discretion properly when applying any modalities to private visits. In the present case, the Impugned Decision considered that the Practice on Private Visits is based on 'relevant security considerations', notably in view of the need for a 'regular supervision of detained persons' as private visits are not supervised by staff of the Detention Centre.⁴⁷ In the present circumstances, the Impugned Decision provides insufficient explanation as to how private visits taking place on consecutive days, as requested by Mr Yekatom, would raise concerns with regard to security that private visits taking place every three to four days would not. No connection is made between the restriction of the frequency of private visits and the schedule, facilities or staff availability in the Detention Centre. Further, the Practice on Private Visits fails to take into account the objective circumstances of the personal situation of the detained persons, including how often and for how long they receive visits from persons eligible for private visits, noting in this regard that many detained persons receive visits infrequently and for a short period of time due, *inter alia*, to the distance their spouse/partner must travel for a visit. Further, the Presidency notes that the Practice on Private Visits is not set out in the Family Visits Policy and appears to have been unknown to Mr Yekatom, who was aware of a contrary practice from his own experience. In view of all these circumstances, the Presidency finds that the Impugned Decision fails to provide clear and sufficient reasons as to the necessity of limiting the private visits received by Mr Yekatom to visits of half a day, every three to four days, especially in view of the fact that Mr Yekatom was not informed that such limitation applied to his private visits. This does not mean that limitations on the frequency or duration of private visits cannot be imposed, but the Presidency strongly encourages the Registrar to ensure that any restrictions on the frequency and duration of private visits are properly justified and fully reflected in the Family Visits Policy, and that the objective circumstances of the detained persons are considered.

⁴⁷ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 27.

24. With regards to Mr Yekatom arguments challenging the *existence* of the Practice on Private Visits at the Detention Centre at all, the Presidency considers that this is immaterial. The material question is that addressed above, whether the adoption of the modality contained in the Practice on Private Visits is lawful or not. Whether such 'practice' has been adopted one time or many, does not have an impact on such legality.
25. With respect to Mr Yekatom's argument that the Impugned Decision ignores submissions concerning international practice on private visits, the Presidency considers that this is inaccurate, as the Impugned Decision acknowledges the existence of international standards relevant to private visits.⁴⁸ More importantly, however, the Impugned Decision properly applies the Court's own legal framework governing this issue and the Impugned Decision's alleged failure to engage in consideration of a few specific examples from the national or international context cannot constitute a legal error.

V. CLASSIFICATION

26. In light of the classification of the Application, the present decision is classified as confidential and *ex parte*. The Presidency takes the view, however, that it would be beneficial to make this decision publicly available, including for the benefit of other detained persons. If there is any factual or legal basis for retaining the confidential classification of this decision or if there is any information in this decision requiring redaction prior to publication, Mr Yekatom and/or the Registrar may inform the Presidency thereof no later than by 4pm on 13 October 2023.

In light of the above, the Presidency:

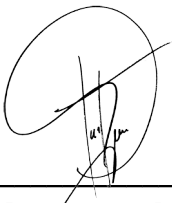
REVERSES the Impugned Decision to the extent set out at paragraph 23 above.

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

⁴⁸ Impugned Decision, ICC-RoR220-03/23-2-Conf-Exp-AnxIII, para. 23.



Judge Piotr Hofmański
President



Judge Luz del Carmen Ibáñez Carranza
First Vice-President



Judge Antoine Kesia-Mbe Mindua
Second Vice-President

Dated this 13 September 2023
At The Hague, The Netherlands