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**International
Criminal
Court**



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

Date: **8 September 2025**

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding
Judge Luz del Carmen Ibáñez Carranza
Judge Gocha Lordkipanidze
Judge Kimberly Prost
Judge Erdenebalsuren Damdin

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *THE PROSECUTOR v.*
*ALFRED ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

Confidential

**Defence Observations on the *"Twelfth Registry Report on the
Implementation of the Restrictions on Contact for Mr Alfred Yekatom
Ordered by Trial Chamber V"*, ICC-01/14-01/18-2804-Conf,
28 August 2025**

Source: Defence for Mr. Alfred Rombhot Yekatom

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INTRODUCTION

1. The Defence for Mr Alfred Rombhot Yekatom ("Defence") hereby provides its observations to the *"Twelfth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V"* (ICC-01/14-01/18-2804-Conf)" notified on 28 August 2025 ("Registry Report"),¹ in which the Registry submits that it 'has no concerns to report'.²
2. The Defence recalls that the Appeals Chamber is currently seized of the Defence's Urgent Request, filed on 25 July 2025, which sought a modification of the restrictions imposed on Mr Yekatom in order to allow him, subject to explicit conditions, to discuss the present case with authorised interlocutors following the issuance of the Judgment.³ The Registry's Report supports the Urgent Request and provides concrete confirmation of Mr Yekatom's compliance with the restrictions.
3. In this regard, and given the brevity and content of the Registry's Report, the Prosecution's Observations,⁴ are entirely superfluous and no more than a poorly veiled attempt to influence the Appeals Chamber perception of Mr Yekatom based on unfounded allegations. Fundamentally, the Prosecution's Observations fail to justify that maintaining the current communication restrictions imposed on Mr Yekatom is still necessary and proportionate at this stage of the proceedings and accordingly should be given no weight in the review of the restrictions currently in place.

¹ ICC-01/14-01/18-2804.

² ICC-01/14-01/18-2804, para. 4.

³ ICC-01/14-01/18-2788-Conf ('Urgent Request').

⁴ ICC-01/14-01/18-2799-Conf ('Prosecution Observations').

PROCEDURAL BACKGROUND

4. On 17 November 2018, Mr Yekatom was incarcerated at the ICC Detention Centre in The Hague.⁵ On the same day Pre-Trial Chamber II implemented restrictions on the communications of Mr Yekatom, which in practice meant that his calls were actively monitored.⁶
5. On 17 April 2020, Trial Chamber V issued its first *Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention* ('Initial Decision').⁷
6. Trial proceedings in the present case commenced on 16 February 2021.⁸
7. On 18 September 2024, the Single Judge declared the submission of evidence in the case closed,⁹ and on 24 July 2025, Trial Chamber V issued its Judgment.¹⁰
8. On 25 July 2025 the Defence filed the Urgent Request requesting a modification of the current communication restrictions imposed on Mr Yekatom and authorisation to discuss the present case, with approved interlocutors. This was subject to the explicit conditions that Mr Yekatom would not mention nor reveal witnesses names or pseudonyms and would not disclose nor reveal confidential information.¹¹
9. On 1 August 2025, the Prosecution responded to the Urgent Request. It did not oppose the application, on the agreed condition that Mr Yekatom undertakes not to discuss or reveal any witnesses nor any confidential information of the case and that its non privileged contacts continue to be monitored.¹²

⁵ ICC-01/14-01/18-17-US-Exp-Red.

⁶ ICC-01/14-01/18-11.

⁷ ICC-01/14-01/18-485-Conf, para. 23.

⁸ ICC-01/14-01/18-T-014.

⁹ ICC-01/14-01/18-2697.

¹⁰ ICC-01/14-01/18-2784.

¹¹ ICC-01/14-01/18-2788-Conf.

¹² ICC-01/14-01/18-2793-Conf.

10. Following an order from the Appeals Chamber,¹³ the Registry filed its Observations on the Urgent Request ('Urgent Observations').¹⁴ The Registry expressed its willingness to implement the requested variations to the contact restrictions and specified that the Victims and Witnesses Unit ('VWU') does not oppose the requested variation to Mr Yekatom's contact restrictions provided that Mr Yekatom refrains from discussing or revealing in clear or coded language 1) any identifying information about witnesses and their family members, such as names, pseudonyms, references to their work, or family links; and 2) any locations of witnesses and their family members.¹⁵
11. On 28 August 2025, the Registry notified the *Twelfth Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom Ordered by Trial Chamber V* specifying that it has no concerns to report.¹⁶
12. On 2 September 2025, the Prosecution's Observations on the Registry Report were notified.¹⁷

SUBMISSIONS

13. Whilst the Registry Report was issued during the Appeals Chamber's deliberations on the Urgent Request, it provides clear and contemporaneous confirmation of Mr Yekatom's consistent adherence to the contact restrictions in place. Even after the issuance of the Judgment, he has fully complied with the conditions imposed and now awaits the Chamber's determination on whether he may be authorised to discuss the outcome of the case against him with close family who are concerned about his well-being.

¹³ ICC-01/14-01/18-2792.

¹⁴ ICC-01/14-01/18-2797.

¹⁵ ICC-01/14-01/18-2797, para. 9.

¹⁶ ICC-01/14-01/18-2804., paras 4-5.

¹⁷ ICC-01/14-01/18-2807.

14. In this context, the Prosecution's Observations are both unnecessary and unfounded. They disregard the Registry's objective findings and advance allegations that lack evidentiary support. Such submissions do not establish that the continuation of the restrictions – as sought by the Prosecution – is necessary or proportionate at this stage of the proceedings and should therefore be accorded no weight by the Chamber.
15. *First*, the Defence notes that the Registry's Report contains no information that would warrant the Prosecution's intervention; nor does the Prosecution identify any change of circumstances in support of its position and mischaracterisation of Mr Yekatom's adherence to the contact restrictions. To the contrary, the Registry Report explicitly confirms that no concerns have arisen.¹⁸
16. Notwithstanding the previous directions of Trial Chamber V that the parties should only respond to reports on restrictions in the event of a change of circumstances warranting modification,¹⁹ the Prosecution has again chosen to take this inappropriate avenue.²⁰ In doing so, it seeks to present a distorted portrayal of Mr Yekatom to the Chamber based on nothing more than assumption.
17. The Prosecution merely rehearses – and in places replicates earlier submissions verbatim – from its prior filings, reiterating baseless and serious allegations against Mr Yekatom, including his purported 'lengthy history of circumventing or attempting to circumvent the conditions of his detention'.²¹ Yet again, the Prosecution does not provide any specific reference to any Chamber's decision which would substantiate such exaggerated claims.²²

¹⁸ ICC-01/14-01/18-2804, paras 4-5.

¹⁹ See ICC-01/14-01/18-672-Conf, para. 26 ; see also ICC-01/14-01/18-965-Red, para. 11.

²⁰ ICC-01/14-01/18-2668.

²¹ ICC-01/14-01/18-2807-Conf, para. 5; ICC-01/14-01/18-2765-Conf, para. 5; ICC-01/14-01/18-2668, para. 6. See also ICC-01/14-01/18-2766-Conf-Exp, para. 17.

²² ICC-01/14-01/18-2807-Conf, para. 5.

18. The Prosecution vaguely avers that the '[d]efendant's prior misconduct' justifies the continuation of the current restrictions.²³ In support, it solely refers to the *Twelfth Decision on Mr Yekatom's Restrictions on Contact and Communication in Detention* ('Twelfth Decision'). While Trial Chamber V did find that Mr Yekatom had breached the restrictions on that occasion,²⁴ the Prosecution omits the Chamber's equally important findings that: (i) the call in question was not related to the present case but concerned a personal matter, (ii) the relevant exchange was limited in nature, and (iii) it could not discern any risk for victims, witnesses or other individuals.²⁵ Having regard to the mitigation of the breach reflected in the above clarifications, Trial Chamber V determined that no amendment to the restriction regime was warranted.²⁶
19. *Second*, the Prosecution's intervention at this stage is entirely misplaced. It fails to acknowledge that the only relevant change of circumstances -namely the end of trial proceedings and the issuance of the judgment - actually favours a renewed determination as to whether the current restrictions remain necessary and proportionate.
20. In this regard, the Defence observes that the right to privacy and family life is a fundamental human rights principle implicitly recognised for an accused person under the Court's statutory framework.²⁷ Restrictions imposed on a detained person are exhaustively regulated by Regulation 101 of the Court. As such, a Chamber must periodically review the restrictions in place and carefully balance the need for and proportionality of the restrictions against the important right accorded to detained persons to have contact.²⁸

²³ ICC-01/14-01/18-2807-Conf, para. 4.

²⁴ ICC-01/14-01/18-2807-Conf, paras 4-5.

²⁵ ICC-01/14-01/18-2767, paras 6-7

²⁶ ICC-01/14-01/18-2767, para. 7.

²⁷ See e.g. Regulation (99)(1)(i) of the Regulation of the Court; Regulations 179(1) and 186(2)(h) of the Regulation of the Registry.

²⁸ ICC-01/14-01/18-485-Conf, para. 18 referring to *The Prosecutor v. Ntaganda* Appeals Chamber Judgment, ICC-01/04-02/06-1817-Red, para. 72.

21. The Defence further recalls the Court's jurisprudence confirming that, while the passage of time does not *per se* eliminate the risk justifying restrictions, it is a factor that acquires increasing significance as time elapses. Necessity and proportionality must therefore be continuously reassessed in light of the passage of time.²⁹
22. Trial Chamber V's initial decision on Mr Yekatom's restrictions on contacts and communications in detention found at the time that the restrictions in place, including the prohibition on discussing the case through any means of communication, were necessary and proportional to safeguard a fair trial and the integrity of the proceedings, as well as to protect the Prosecution's ongoing investigations and victims and witnesses in this case.³⁰
23. Substantial time has since elapsed.
24. A judgment, largely favorable to the Prosecution, was rendered over a month ago and the trial proceedings themselves concluded more than eight months earlier. The alleged risks raised by the Prosecution in its Observations have therefore become moot. The Defence recalls that in other cases before this Court, communication restrictions were lifted even prior to the issuance of a judgment.³¹
25. Moreover, since the imposition of restrictions by Pre-Trial Chamber II on 17 November 2018, none of the deviations noted in the periodic Registry reports and reviewed by the Chamber have been linked to witness interference or have otherwise impacted the integrity of the proceedings.
26. The Prosecution's decision not to oppose Mr Yekatom's Urgent Request to allow him to discuss the present case with his interlocutors, reflects an

²⁹ *The Prosecutor v. Bosco Ntaganda*, OA 4 Judgment, ICC-01/04-02/06-1817-Red, para. 72.

³⁰ ICC-01/14-01/18-485-Conf, para. 23.

³¹ ICC-01/14-01/18-2788-Conf, paras 14-15.

acknowledgment of the significantly reduced level of risks.³² This acknowledgment is also evident in the Prosecution's response to the Ngaïssona Defence's similar request for amendment of contact restrictions, where the Prosecution underscored the distinct circumstances pertaining to Mr Yekatom.³³

27. The Defence regrets that the Prosecution has once again pursued an inappropriate course of submissions to advance a misleading portrayal of Mr Yekatom before the Chamber. It is hoped that the present observations will prevent any resulting misconceptions.

CONFIDENTIALITY

28. The present observations are filed on a confidential basis corresponding to the classification of the Prosecution's Observations. The Defence does not oppose the reclassification of the present observations as public.

CONCLUSION

29. In light of the above, the Defence respectfully requests the Appeals Chamber to take into consideration those submissions when reviewing the current restrictions on the communications of Mr Yekatom.

³² ICC-01/14-01/18-2793-Conf.

³³ ICC-01/14-01/18-2802-Conf, paras 1 and 3.

RESPECTFULLY SUBMITTED ON THIS 8th DAY OF SEPTEMBER 2025



Me Mylène Dimitri
Lead Counsel for Mr. Yekatom

The Hague, the Netherlands