

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/18
Date: 20 February 2026

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***

PUBLIC

Public Redacted Version of “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” (ICC-01/14-01/18-467-Conf-Exp), dated 30 March 2020

Source: Registry

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

D30

D29

☒ Legal Representatives of the Victims

Legal Representatives of the Applicants

V44

V45

Unrepresented Victims

Unrepresented Applicants
(Participation/Reparation)

The Office of the Public Counsel for Victims

The Office of the Public Counsel for the Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Counsel Support Section

M. Zavala Giler, Osvaldo

☒ Victims and Witnesses Unit

☒ Detention Section

Victims Participation and Reparations
Section

I. Introduction

1. Following Trial Chamber V's ("Chamber") order to the Registry¹ to provide observations to the "Request to Modify the Restrictions on Contacts and Communications to Eliminate Random Active Monitoring during Coronavirus pandemic" ("Request"),² submitted by the Defence of Mr Alfred Yekatom ("Defence" or "Mr Yekatom") on 18 March 2020, the Registry hereby submits its Observations. Simultaneously, the Registry informs the Chamber of one active monitoring telephone incident.

II. Procedural history

2. On 17 November 2018, the Single Judge acting on behalf of Pre-Trial Chamber II ("Pre-Trial Chamber") issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court", *inter alia*, directing the Registrar to put in place measures to restrict Mr Yekatom's contact, including the prohibition of any discussion on case related matters and the use of obscure or coded language during communications, and limiting his non-privileged telephone calls to 60 minutes a week in Sango or French language.³
3. On 10 January 2019, the Single Judge of the Pre-Trial Chamber issued the "Third Decision Pursuant to Regulation 101 of the Regulations of the Court",

¹ Email Correspondence from the Associate Legal Officer of Trial Chamber V to the Registry on 19 March 2020 at 17:21.

² Defence, "Yekatom Defence Request to Modify the Restrictions on Contacts and Communications to Eliminate Random Active Monitoring during Coronavirus pandemic" ("Request"), 18 March 2020, ICC-01/14-01/18-458-Conf-Exp.

³ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 17 November 2018, ICC-01/14-01/18-11-Conf-Exp.

deciding, *inter alia*, to allow Mr Yekatom private family visits from his wife and children, without any monitoring or sensitive listening devices.⁴

4. On 1 March 2019, the Pre-Trial Chamber issued its "Decision Pursuant to Regulation 101 of the Regulations of the Court", deciding, *inter alia*, that "Yekatom's [...] non-privileged telephone conversations and visits (apart from private family visits) shall henceforth be actively monitored *at random* [...] as frequently as possible" and ordering the Registrar to inform the Chamber immediately of any violation.⁵
5. On 15 April 2019, the Pre-Trial Chamber issued its "Decision Pursuant to Regulation 101 of the Regulations of the Court" deciding, *inter alia*, to extend the restrictive measures for the remainder of the pre-trial proceedings.⁶
6. On 9 July 2019, the Pre-Trial Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court", ordering, *inter alia*, the Registry to substantially increase the frequency of random monitoring of telephone calls to specific contacts.⁷ The Chamber also instructed the Registry to inform the Chamber immediately of any violation of the regime, or any other significant development.⁸
7. Following a series of decisions deciding to maintain the restrictions on contact,⁹ on 6 March 2020, the Pre-Trial Chamber issued the "Decision

⁴ Pre-Trial Chamber II, "Third Decision Pursuant to Regulation 101 of the Regulations of the Court", 10 January 2019, ICC-01/14-0118-52-Conf-Exp, para. 18.

⁵ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 1 March 2019, ICC-01/14-01/18-137-Conf-Exp, paras. 19-22.

⁶ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 15 April 2019, ICC-01/14-01/18-176-Conf-Red, para. 32.

⁷ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 9 July 2019, ICC-01/14-01/18-241-Conf-Exp, para. 27.

⁸ *Ibid.*, para. 32.

⁹ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 17 September 2019, ICC-01/14-01/18-350-Conf-Exp, para. 27 ; Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 6 December 2019, ICC-01/14-01/18-402-Conf-Exp,

Pursuant to Regulation 101 of the Regulations of the Court”, deciding, *inter alia*, “[...] to increase Yekatom’s non-privileged call time, subject to random active monitoring, to one 90 minute period, two days per week”.¹⁰

8. On 16 March 2020, the Presidency constituted Trial Chamber V (“Chamber”) and referred the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* to that Chamber.¹¹ On 17 March 2020, the Registry transmitted to the Chamber the record of the proceedings.¹²
9. On 18 March 2020, the Defence filled its Request, asking the Chamber “[...] to order that random active monitoring of Mr. Yekatom’s telephone contacts and communications is no longer required during the coronavirus pandemic”.¹³
10. On 19 March 2020, the Chief Custody Officer (“CCO”) of the Detention Centre (“DC”) of the International Criminal Court (“ICC”) issued a memo to all detained persons informing them of the urgent measures taken at the Detention Centre to protect them against the spread of the COVID-19 coronavirus pandemic.¹⁴

III. Classification

11. 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, the Prosecution and the Registry, as the report contains

para. 28; Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court”, 17 January 2020, ICC-01/14-01/18-419-Conf-Exp, para. 16.

¹⁰ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court”, 6 March 2020, ICC-01/14-01/18-446-Conf-Exp, para. 20.

¹¹ Presidency, “Decision constituting Trial Chamber V and referring to it the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*”, 16 March 2020, ICC-01/14-01/18-451.

¹² Registry, “Transmission to Trial Chamber V of the record of the proceedings, including the Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaïssona”, 17 March 2020, ICC-01/14-01/18-455.

¹³ Request, para. 23.

¹⁴ Annex II.

sensitive information on Mr Yekatom's private life and detention-related matters.

IV. Applicable law

12. For the purpose of the present submission, the Registry has considered regulations 99(1)(h), (i) and 101 of the RoC, and regulations 173, 174, and 175 of the Regulations of the Registry ("RoR").

V. Submissions

13. The Defence requests the Chamber to lift the restriction of random active monitoring during the duration of the COVID-19 pandemic, which would allow Mr Yekatom to speak to his family more frequently and would have a positive effect on his mental well-being.¹⁵

14. As the neutral organ of the Court, the Registry does not take a substantive view on whether or not the restrictions on contact of active monitoring should be maintained during the COVID-19 pandemic. However, as invited by the Chamber, the Registry makes the following observations.

15. On 19 March 2020, the CCO issued a memo to all detained persons informing them of certain new measures at the DC,¹⁶ aimed at reducing contacts from the outside world to the detained persons. This included temporarily suspending all visits to the DC, including legal visits, which can still be conducted *via* telephone and the Defence network.¹⁷

¹⁵ Request, paras. 19 and 22.

¹⁶ Annex II.

¹⁷ [REDACTED].

16. For the information of the Chamber, the Detention Section (“DS”) of the Registry [REDACTED]. This procedure started last week and thus far has not presented any challenges.
17. The Registry is the organ currently tasked with implementing orders for active monitoring or contact restrictions for detained persons. It is therefore currently assessing the processes and contingency planning for active monitoring of telephone calls during the COVID-19 pandemic. As with all areas of the Court during this pandemic, but especially for the lean Registry team that implements active monitor orders, it is not a remote possibility that circumstances outside the control of the Registry (COVID-19) may temporarily limit the Registry’s ability to continuously provide active monitoring during this pandemic. As an example, and specifically applicable to Mr Yekatom, there is currently only one Language Services Section (“LSS”) field interpreter providing Sango language services in active monitoring. While the Registry will do its best to ensure continuity of service, it wishes to inform the Chamber in advance that we are all in unprecedented territory.
18. Following the Defence Request, should the Chamber order that random active monitoring continues during the period of the COVID-19 pandemic, the Registry informs the Chamber that there are currently no challenges preventing active monitoring to continue in its current form. The Registry will immediately inform the Chamber should this situation change.
19. Furthermore, the Registry provides observations on other temporary and exceptional alternative measures.

Active monitoring

20. The Registry would not be in favour of extending active monitoring to more than two days a week, as that would be an increase in staff resources during a challenging time [REDACTED].¹⁸ [REDACTED]. Should the Chamber nevertheless order active monitored telephone calls for more than two days a week for Mr Yekatom, the Registry respectfully requests that the limit of 180 minutes remains, to keep the interpretation workload to a manageable level.
21. The Defence also mentions remote active monitoring,¹⁹ which the Registry terms *post facto* monitoring, referring to a procedure where all telephone calls of a detained person are recorded and then listened to *post facto* by an LSS field interpreter. This possibility could allow Mr Yekatom to make phone calls outside the current scheduled time periods.
22. Should the Registry be ordered to *post facto* monitor Mr Yekatom's telephone conversations, the Registry respectfully requests that the current limit of 180 minutes a week be maintained, to ensure that the interpretation work load remains manageable.
23. Finally, the Defence proposition of utilizing regulation 174 of the RoR for passive monitoring of telephone calls²⁰ presents no challenges for the Registry. In this option, Mr Yekatom's telephone calls would not be actively monitored but would remain recorded and archived until the end of the proceedings. Regulation 175 of the RoR allows the CCO to actively monitor the telephone calls of detained persons at random, but the Chamber should be aware that this is much less frequent and systematic than the current restrictions on contact in place for Mr Yekatom.

¹⁸ Email from the Registrar to all ICC Staff on 24 March 2020 at 14:18.

¹⁹ Request, para. 15.

²⁰ Request, para. 20.

24. As a final note, the Registry considers that contact with family members is an important part of the psycho-social well-being of detained persons, especially during this pandemic, and as such it will do its best during this crisis to continue to facilitate communications for all detained persons to the extent possible, having regards to their safety and the safety of ICC and DC Staff.

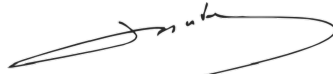
Incident occurring during active monitoring

25. The Registry also takes the opportunity of this filing to inform the Chamber about one incident that occurred during the active monitoring of Mr Yekatom's telephone calls on 23 March 2020, during a conversation between Mr Yekatom and his interlocutor. The CCO received the detailed transcript from LSS on 27 March 2020, and therefore urgently informs the Chamber of the incident in this filing.

26. Pursuant to the relevant orders of the Chamber, Mr Yekatom is to refrain from discussing aspects of his case, or using obscure or coded language. The conversation between Mr Yekatom and his interlocutor appears to be a discussion about Mr Yekatom's case, in obscure language. The CCO considers that it is a breach of the Chamber's orders and therefore communicates the relevant excerpt of the conversation in annex for the Chamber's determination.²¹

²¹ Annex I.

27. The interlocutor remains on Mr Yekatom's list as this is the first incident detected with this interlocutor. A written notification to Mr Yekatom will be provided to Mr Yekatom this week, in accordance with internal DS procedure.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 20 February 2026

At The Hague, The Netherlands