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No.: **ICC-01/14-01/18**
Date: **24 February 2026**

TRIAL CHAMBER V

Before: Judge Beti Hohler, Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

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

Public

**Public redacted version of “Prosecution’s Observations on the ‘Confidential Redacted Version of ‘Second Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Trial Chamber V”, (ICC-01/14-01/18-673-Conf-Red)”,
ICC-01/14-01/18-679-Conf, 9 October 2020**

Source: Office of the Prosecutor

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

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Legal Representatives of Applicants

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**Victims Participation and Reparations
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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") provides its observations on the Registry's 5 October 2020 report on the implementation of contact restrictions regarding YEKATOM,¹ as ordered by Trial Chamber V ("Chamber") pursuant to regulation 101 of the Regulations of the Court ("RoC").² The Chamber should (i) maintain the current Order restricting YEKATOM's contacts in detention³, (ii) grant the Registry's request to remove the YEKATOM Defence team's language assistant ("Language Assistant") from the list of privileged visitors, and (iii) order that YEKATOM cease use of his non-privileged communications to violate the United Nations Security Council ("UNSC") sanctions.

2. Absent any positive change of circumstances, the current restrictions on YEKATOM's contacts in detention should be maintained as ordered by the Chamber in its 21 August 2020 Decision.⁴ This will minimise the risk to the integrity of the proceedings and to witnesses whose identities are known to the Accused. Moreover, these restrictions remain proportionate and minimally necessary given YEKATOM's repeated violations of the conditions of his detention. His recent violation of the Chamber's Order reported in the Registry's Second Report⁵ emphasises, not only the need for the Order, but for its vigilant enforcement.

3. Moreover, as noted by the Chamber before,⁶ the volatile security situation in the Central African Republic ("CAR"), as well as YEKATOM's influence over members of the Anti-Balaka exacerbate the risk to the integrity of the proceedings and to the witnesses whose identities are known to the Accused, and whose security in this case remains precarious.

¹ ICC-01/14-01/18-673-Conf- Red ("Second Report"). *See also* ICC-01/14-01/18-540-Conf, para. 13.

² *See* ICC-01/14-01/18-485-Conf-Exp, p. 16 ("Order").

³ ICC-01/14-01/18-485-Conf-Exp.

⁴ ICC-01/14-01/18-627-Conf ("Second Decision").

⁵ ICC-01/14-01/18-673-Conf -Red, paras. 12-13, 18.

⁶ ICC-01/14-01/18-485-Conf-Exp, para. 21, ICC-01/14-01/18-627-Conf, para. 13.

4. In respect of the reported violations, the Prosecution requests the Chamber to grant the Registry's request to remove the Defence language assistant from YEKATOM's list of privileged visitors and to protect the integrity of the Court by ordering YEKATOM to cease operating his *Koya* security business from the Detention Centre in violation of the UNSC sanctions.

II. CONFIDENTIALITY

5. Pursuant to regulation 23bis(1) of the RoC, this document is filed as "Confidential", as it refers to filings and decisions of the same classification.

III. SUBMISSIONS

A. YEKATOM has repeatedly shown his willingness to violate his contact restrictions

6. As the Prosecution's previous filing (incorporated by reference herein) notes, YEKATOM has a history of willingness to violate the conditions of his detention,⁷ despite purportedly showing remorse previously,⁸ and despite preventive measures undertaken by his Defence to avoid further violations.⁹ In its Second Decision, the Chamber took note of YEKATOM's prior violations of his contact restrictions, acknowledging his breach thereof "irrespective of the content of the recorded message".¹⁰

7. Once again, YEKATOM has clearly violated the Chamber's Order in a series of non-privileged calls made between 4 May and 7 September 2020. The Second Report shows that once more, YEKATOM attempted to circumvent the Chamber's Order by

⁷ ICC-01/14-01/18-69-Conf-Exp, para. 11, ICC-01/14-01/18-465-Conf-Exp, para. 9, ICC-01/14-01/18-599-Conf, paras. 6-8.

⁸ ICC-01/14-01/18-494-Conf-Exp, paras. 2-3, ICC-01/14-01/18-606-Conf, paras. 4, 6.

⁹ ICC-01/14-01/18-606-Conf, para. 5.

¹⁰ ICC-01/14-01/18-627-Conf, paras. 16-17.

mentioning the present case during non-privileged telephone communications. In this regard, he used individuals on his non-privileged list of contacts to hire or vet lawyers and/or [REDACTED] to assist his Defence team.¹¹ The process of vetting a good lawyer for his defence is not in itself an issue. Indeed, such a right is essential. However, YEKATOM's use of non-privileged contacts to do so was improper, especially given his clear awareness of the terms and conditions of the Order which have been repeatedly conveyed to him.

8. As detailed below, YEKATOM also appears to have taken advantage of his privileged contacts with the [REDACTED] to communicate with individuals [REDACTED].¹² These repeated incidents over the last four months demonstrate YEKATOM's continued willingness to circumvent the Chamber's Order and justifies maintaining random active monitoring of YEKATOM's telephone calls to ensure the safety of witnesses and the integrity of the proceedings.

B. The current restrictions on contacts must be maintained

9. Since this Chamber issued its Second Decision on 21 August 2020,¹³ there has been no positive change in circumstances that would require the Chamber to reconsider its determination regarding the contact restrictions currently imposed on YEKATOM. On the contrary, as mentioned above, YEKATOM has clearly violated the Chamber's Order. Thus, it is vital that the restrictions on YEKATOM's non-privileged telephone calls remain in full force through the next period of review. These restrictions remain proportionate and minimally necessary to attenuate at least some of the risks posed regarding the integrity of the on-going investigation pursuant to regulation 101(2)(b), and as concerns the protection of witnesses and victims pursuant to regulation 101(2)(c) and (f).

¹¹ ICC-01/14-01/18-673-Conf-Red, para. 13.

¹² ICC-01/14-01/18-673-Conf-Red, para. 13(g).

¹³ ICC-01/14-01/18-627-Conf.

10. This is consistent with the Chamber's recent findings while assessing the necessity and the proportionality of the current restrictions on YEKATOM's contacts. In deciding to maintain the said restrictions, the Chamber took into consideration (i) his recent breach of the restrictions; (ii) his knowledge of the Prosecution trial witnesses; and (iii) the impact of the Coronavirus pandemic on the implementation of protective measures for victims and witnesses.¹⁴ These concerns persist as YEKATOM is now closer to trial, with a definitive trial date having been set, and faces grave charges that may result in multiple convictions *each* potentially carrying a lengthy sentence. Therefore, reducing the restrictions would undoubtedly increase the risk to witnesses who may become reluctant to cooperate or to remain involved with this case.

C. The Chamber should grant the Registry's request to remove the Defence team's language assistant from the privileged list of YEKATOM's visitors

11. The Prosecution supports the Registry's requests to remove the Language Assistant from YEKATOM's list of privileged visitors and to allow visits only in the presence of privileged counsel or assistants to counsel. This request is consistent with the ICC legal privileges regime. Pursuant to article 67(1)(b), rule 73(1), and regulations 68, 97(1) and 97(2) of the RoC, such legal privilege only includes lead counsel, co-counsel, and assistants to counsel. In particular, regulation 97(1) refers to the "assistance of an interpreter" in the context of a communication between the detained person and "his defence counsel or assistants to his defence counsel". The chambers in other cases have also adopted a strict interpretation of legal privileges. In the *Al Hassan* case, Trial Chamber X recently held that "privileged communication is afforded only to: (i) counsel, whether lead counsel or co-counsel; and (ii) assistants to counsel"¹⁵. Trial Chamber III had adopted a similar approach in the *Bemba* case, finding that such privilege is afforded to counsel and assistants to counsel, and that

¹⁴ ICC-01/14-01/18-627-Conf, para. 24.

¹⁵ ICC-01/12-01/18-560, paras. 14-15.

“nothing in the legal framework of the Court extends legal privilege to an accused's communication with persons who do not meet these requirements, regardless of whether they "assist" counsel in the broad sense of the word”.¹⁶

12. As reported by the Registry,¹⁷ Language Assistant [REDACTED] had been granted privileged visits to YEKATOM without the presence of Counsel since 11 January 2019.¹⁸ Even though the Language Assistant has not been able to visit YEKATOM since March 2020 due to COVID-19 measures, the Registry noted that the name [REDACTED] is “mentioned frequently in Mr Yekatom’s communications” and considered it to be a reference to the Language Assistant.¹⁹ In particular, a 7 September 2020 conversation between YEKATOM and an undisclosed interlocutor indicates that the said [REDACTED] was in contact with individuals on YEKATOM’s non-privileged list of contacts. In that conversation, the interlocutor told YEKATOM that “[REDACTED]” and added that “(...) [REDACTED]” (emphasis added).²⁰ From these excerpts, the Language Assistant appears to be acting as an intermediary between YEKATOM and a non-privileged person, conveying information from one to another. Although it is not apparent from this conversation that the Language Assistant disclosed confidential case-related information to a third person, such eventuality cannot be excluded or ignored, given the previous circumventions of privileged communications before this Court.

13. Even if it later proves that the person referred to in these non-privileged communications is not the Language Assistant, the Court’s history of abuse of privileged²¹ and non-privileged²² communications at the ICC detention centre shows that the integrity of proceedings can be affected when appropriate steps are not

¹⁶ ICC-01/05-01/08-3080, para. 19. *See also* ICC-01/05-01/13-48, para. 3.

¹⁷ ICC-01/14-01/18-673-Conf-Red, para. 15.

¹⁸ ICC-01/14-01/18-56-Conf, para. 21.

¹⁹ ICC-01/14-01/18-673-Conf-Red, para. 14.

²⁰ ICC-01/14-01/18-673-Conf-Red, para. 13(g).

²¹ ICC-01/05-01/13-2276-Red A6 A7 A8 A9, para. 158.

²² ICC-01/04-02/06-785-Red, paras. 43, 46; ICC-02/04-01/15-254, paras. 1 and 6.

taken to regulate the contacts of detained persons.²³ Removing the Language Assistant from the list of privileged visitors and allowing him to communicate with YEKATOM only in the presence of his Counsel or their assistants would certainly reduce the risks involved.

D. The Chamber should order YEKATOM to cease using non-privileged communications to operate his business in violation of UNSC sanctions

14. The Chamber should order YEKATOM to refrain from using his non-privileged contacts to violate international sanctions to which he is subject. Some of the monitored communications recently reported by the Registry relate to the purchase of security equipment for *Koya*, a security company owned by YEKATOM.²⁴ The arrangement for this purchase was made by YEKATOM during non-privileged conversations with two undisclosed interlocutors between July and September of this year. It appears from these conversations that YEKATOM continues to manage and operate his business from the Detention Centre, violating the UNSC sanctions. As the Prosecution's previous filing (incorporated by reference herein) notes,²⁵ YEKATOM remains subject of sanctions per UNSC Resolutions 2127 (2013)²⁶ and 2134 (2014)²⁷ and should not profit from operating a business in violation thereof through implements provided by the Court's detention facilities. Since 20 August 2015, YEKATOM has been on the sanctions list,²⁸ which was extended on account of Resolution 2536 (2020) to 31 July 2021.²⁹ By virtue of these sanctions, "*financial assets*

²³ See Open Society Justice Initiative, [Witness Interference in Cases before the International Criminal Court](#) (November 2016), p. 2 ("ICC judges have recognized that witness interference may indeed have been committed across nearly all ICC cases that have moved to the trial phase.") [last accessed 9 October 2020].

²⁴ ICC-01/14-01/18-673-Conf-Red, para. 18.

²⁵ ICC-01/14-01/18-512-Conf-Exp, paras. 3, 5, 10-11.

²⁶ [https://undocs.org/en/S/RES/2127\(2013\)](https://undocs.org/en/S/RES/2127(2013))

²⁷ <http://unscr.com/en/resolutions/doc/2134>

²⁸ <https://www.un.org/securitycouncil/sanctions/2127/materials/summaries/individual/alfred-yekatom;>
<https://www.un.org/securitycouncil/sanctions/2127/sanctions-list-materials/summaries>

²⁹ <https://digitallibrary.un.org/record/3874163?ln=fr>

and economic resources (...) owned or controlled, directly or indirectly” by YEKATOM, including Koya Security, should have been frozen by CAR authorities.³⁰

15. By permitting YEKATOM to continue running his business from the Detention Centre, the Court effectively allows him to undermine them. Although the Court is not charged with enforcing international sanctions, it certainly should not be involved in contributing to their violation.

IV. CONCLUSION

16. For the above reasons, the Prosecution considers that the Chamber should (i) maintain the current restrictions on YEKATOM’s contacts in detention; (ii) grant the Registry’s request to remove the Language Assistant from the privileged list of YEKATOM’s visitors; and (iii) order YEKATOM to cease using non-privileged communications to operate his business in violation of international sanctions.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 24th day of February 2026
At The Hague, The Netherlands

³⁰ <http://unscr.com/en/resolutions/doc/2134>, para. 32