Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-RoR220-01/26**
Date: **2 September 2026**

THE PRESIDENCY

Before: **Judge Tomoko Akane, President**
Judge Rosario Salvatore Aitala, First Vice-President
Judge Reine Alapini-Gansou, 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 Alfred Yekatom and the Registry**

Decision on the 'Yekatom Defence Application for judicial review of Registrar's decision of 22 June 2026' dated 30 June 2026 (ICC-RoR220-01/26-1-Conf-Exp)

Pursuant to Presidency's Decision ICC-ROR220-01/26-9 dated 10-11-2026, this document is reclassified as Public

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

☐ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

☐ **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**

☐ **Victims Participation and Reparations Section**

☐ **Other**

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The Presidency of the International Criminal Court (the 'Court') has before it the application filed by Mr Alfred Yekatom ('Mr Yekatom') dated 30 June 2026, seeking judicial review pursuant to regulation 220 of the Regulations of the Registry (the 'Regulations') of the Registrar's rejection of a request for review submitted by Mr Yekatom on 28 May 2026 pursuant to regulation 219(1) of the Regulations (the 'Application').[1]

I. PROCEDURAL HISTORY

1. On 30 June 2025, Mr Yekatom submitted a request to the Acting Chief Custody Officer (the 'ACCO'), seeking authorisation to receive audio-visual material from family members as well as the implementation of a system for transmission of digital files from family members to detained persons (the 'Request of 30 June 2025').[2]
2. On 31 July 2025, the ACCO granted, in part, the Request of 30 June 2025, allowing the transmission of audio-visual material of family members to Mr Yekatom on an exceptional basis.[3] The ACCO further mentioned that Mr Yekatom may continue making use of the 'video conference policy' of the Detention Centre.[4]
3. On 4 May 2026, Mr Yekatom submitted a complaint to the ACCO pursuant to regulations 217 and 218 of the Regulations (the 'Complaint'), requesting, *inter alia*, the ACCO to authorise the communication of audio-visual material from family members of detained persons and the adoption of a policy governing the transmission of such material to detained persons.[5] Mr Yekatom also recalled that the Request of 30 June 2025 to this effect remained unaddressed.[6]
4. On 20 May 2026, the ACCO rejected the Complaint as unjustified (the 'ACCO Decision').[7] As a preliminary matter, the ACCO noted that it appears that the Complaint

[1] Defence for Mr Yekatom, Yekatom Defence Application for judicial review of Registrar's decision of 22 June 2062, 30 June 2026, ICC-RoR220-01/26-1-Conf-Exp; a corrected version was filed on 7 July 2026 (ICC-RoR220-01/26-1-Conf-Exp-Corr).
[2] Defence for Mr Yekatom, Request of 30 June 2025, ICC-RoR220-01/26-1-Conf-Exp-AnxC, pp. 2-5 *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[3] Email from the Detention Centre to the Defence team for Mr Yekatom dated 31 July 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxD, pp. 2-3, *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[4] Email from the Detention Centre to the Defence team for Mr Yekatom dated 31 July 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxD, p. 3, *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[5] Defence for Mr Yekatom, Complaint, 4 May 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 3-14, *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[6] Complaint, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 4-5.
[7] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 15-22, *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.

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was, in fact, a new request to the ACCO rather than a complaint against a decision taken by the ACCO against Mr Yekatom pursuant to regulations 217 and 218 of the Regulations.[8] On the merits, the ACCO recalled that the transmission of audio-visual material to Mr Yekatom from his family had been authorised on an exceptional basis, and explained, *inter alia*, that the current framework governing the communications between detained persons and their family is effective and adequate, and that the adoption of a policy governing the transmission of digital files would pose significant constraints in terms of management of security risk and human resources, and goes beyond the remit of the ACCO.[9]

5. On 28 May 2026, Mr Yekatom submitted a request for review of the ACCO Decision to the Registrar, submitting that the ACCO mischaracterised the Complaint, as Mr Yekatom was not seeking authorisation for the implementation of a new communication platform or technological system for the transmission of audio-visual material to detained persons but rather, sought for such transmission to be authorised through existing procedures and a dedicated and clearly-circumscribed system within the framework of regulation 99 of the Regulations of the Court (the 'Request for Review').[10] Mr Yekatom also argues that the ACCO Decision erred in concluding that the current modalities of family contacts are adequate and sufficient, and failed to justified how the requested system would give rise to security or operational concerns.[11]

6. On 8 June 2026, the Registry informed the Defence team for Mr Yekatom, via email, that Mr Yekatom had not followed the complaints procedure prescribed in regulations 217 to 219 of the Regulations, noting that Mr Yekatom must, as a first step, submit a complaint to the ACCO, after which the ACCO shall take a decision (the 'Email of 8 June 2026').[12] The Registry explained that absent of any decision taken by the ACCO, it was not in a position to consider the Request for Review, which was considered 'void'.[13] Upon an email from the Defence team for Mr Yekatom asking further clarification, the Registry responded, on 12 June 2026, that despite Mr Yekatom having used the correct form for the submission of complaints to the ACCO, 'there appears to be a disagreement on what

[8] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, p. 16.
[9] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 16-21.
[10] Defence for Mr Yekatom, Request for Review, ICC-RoR220-01/26-1-Conf-Exp-AnxG, pp. 4, 6-8 *annexed to* Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[11] Request for Review, ICC-RoR220-01/26-1-Conf-Exp-AnxG, pp. 4, 9-19.
[12] Registry, Email of the Registry to the Defence team for Mr Yekatom dated 8 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 5, *annexed to* Application, CC-RoR220-01/26-1-Conf-Exp-Corr.
[13] Email of 8 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 5.

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would be the initial request to the ACCO' which would trigger the complaint, noting that the Defence considers it to be the Request of 30 June 2025, while the ACCO Decision considers it to be the Complaint (the 'Email of 12 June 2026').[14] Upon further inquiry by the Defence team, the Registry clarified, on 22 June 2026, that the notification of a 'refusal decision' by the ACCO of an 'initial request' is essential to enable a detained person to exercise the right to file a complaint pursuant to regulation 217(1) of the Regulations (the 'Email of 22 June 2026').[15] The Registry explained that, in the present case, the ACCO Decision is to be construed as a refusal decision of an initial request made by Mr Yekatom on 4 May 2026 (e.g. the Complaint), and that because the ACCO Decision was not subject to any complaint, as required by regulation 218(1) of the Regulations, Mr Yekatom failed to initiate the complaints procedure.[16]

7. On 30 June 2026, Mr Yekatom filed the present Application for judicial review of the Registrar's rejection of the Request for Review by the Presidency pursuant to regulation 220(1) of the Regulations.[17] Mr Yekatom submits that the Email of 22 June 2026 or, alternatively, the refusal of the Registrar to issue a decision on the Request for Review, should be understood as a decision of the Registrar within the meaning of regulation 219(3) of the Regulations subject to judicial review by the Presidency.[18]

8. On 3 July 2026, the Registry transmitted a relevant supporting document relating to the Application pursuant to regulation 220(3) of the Regulations.[19] In addition, the Registry made two requests, seeking an extension of the time limit to submit observations under regulations 220(4) of the Regulations until 16 July 2026 and the reclassification of the Application as confidential *ex parte*.[20] On 7 July 2026, these two requests were granted by the Presidency.[21]

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[14] Registry, Email of the Registry to the Defence team for Mr Yekatom dated 12 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 4, *annexed to* Application, CC-RoR220-01/26-1-Conf-Exp-Corr.
[15] Registry, Email of the Registry to the Defence team for Mr Yekatom dated 22 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 2, *annexed to* Application, CC-RoR220-01/26-1-Conf-Exp-Corr.
[16] Email of the Registry to the Defence team for Mr Yekatom dated 22 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 2.
[17] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[18] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 22-23.
[19] Transmission, ICC-RoR220-01/26-2-Conf-Exp, paras 1, 6-8.
[20] Transmission, ICC-RoR220-01/26-2-Conf-Exp, paras 1, 23.
[21] Presidency, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Decision on request for extension of time limit to file Registry's observations pursuant to regulation 220(4) of the Regulations of the Registry and request for reclassification, dated 3 July 2026 (ICC-RoR220-01/26-2-Conf-Exp), 7 July 2026, ICC-RoR220-01/26-3-Conf-Exp, p. 5.

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9. On 16 July 2026, the Registrar submitted observations pursuant to regulation 220(4) of the Regulations (the 'Observations').[22]

10. On 21 July 2026, Mr Yekatom submitted a request for leave to reply to the Observations (the 'Request for Leave to Reply').[23]

II. PRELIMINARY PROCEDURAL ISSUE

11. The Presidency recalls that pursuant to regulation 220(1) of the Regulations, a detained person wishing to apply to the Presidency for judicial review of a decision of the Registrar taken pursuant to regulation 219, may do so within 7 calendar days. The Presidency further recalls that regulation 33(1)(d) of the Regulations of the Court on the calculation of time limits provides that documents shall be filed by 4pm on the first working day of the Court following expiry of the time limit.

12. In its Observations, the Registry submits that the Application should be dismissed *in limine* as it was filed at 17:49 on 30 June 2026, that is, on the first working day of the Court following the expiry of the 7-day time limit provided in regulation 220(1) of the Regulations, but after the 4pm deadline provided in regulation 33(1)(d) of the Regulations of the Court.[24] The Presidency notes that the Application was, in fact, originally submitted at 16:12 on 30 June 2026, that is, 12 minutes after the expiry of the time limit. The Application was, however, incorrectly filed in case number ICC-01/14-01/18. Upon being informed of the filing of the Application by the Court Management Section, the Presidency determined that the Application ought to be filed, instead, in case number ICC-RoR220-01/26. The Application was then filed anew in the correct case number at 17:49.

13. The Presidency notes that regulation 35(2) of the Regulations of the Court provides that time limits may be extended if good cause is shown and, after the lapse of a time limit, extension may only be granted where an application has not been filed in time for reasons outside of the control of the filing party. In the present case, the Defence for Mr Yekatom

[22] Registrar, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Registry Observations pursuant to Regulation 220(4) of the Regulations of the Registry, 16 July 2026, ICC-RoR220-01/26-4-Conf-Exp, para. 1.
[23] Defence for Mr Yekatom, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Yekatom Defence Request for leave to reply to Registry Observations (ICC-ROR220-01/26-4-Conf-Exp), 20 July 2026, ICC-RoR220-01/26-5-Conf-Exp.
[24] Observations, ICC-RoR220-01/26-4-Conf-Exp, para. 21.

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did not present any explanation for the delayed submission of the Application. The Presidency emphasizes that it is crucial in the judicial review process that applicants seek timely and appropriate relief if they cannot file within the application time limit.[25] Notwithstanding this, the Presidency exercises its discretion to assess the Application in the instant case, given the nature of the Application, which pertains to the procedure for complaints concerning detention matters, and the minimal nature of the lateness of the filing of the Application.

III. DETERMINATION OF THE PRESIDENCY

A. Request for Leave to Reply

14. Mr Yekatom seeks leave to reply on the following issues arising from the Registry Observations: i) the Registrar's request that the Application be dismissed *in limine* on account of it being time-barred; ii) the Registrar's reasoning underpinning his refusal to issue a formal decision under regulation 219(3) of the Regulations of the Registry; iii) the effect of systematic mischaracterisations in the Observations; iv) the Registrar's argument that the sought relief falls outside the legal framework; and v) the Registrar's reference to 'other viable solutions'.[26] Mr Yekatom submits that these are new issues, which he could not have reasonably anticipated.[27] In particular, Mr Yekatom highlights that he was unable to address the Registry's legal and factual reasoning on the present matter, as this reasoning was provided in the Observations filed after the Application.[28]

15. The Presidency recalls that regulation 24 of the Regulations of the Court may potentially be applied before the Presidency in certain circumstances.[29] In the present case, however, the Presidency does not consider that receiving further submissions on the above mentioned issues will assist it in ruling on the Application as the Presidency is sufficiently informed to decide on the basis of the existing submissions. The Presidency therefore rejects the Request for Leave to Reply.

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[25] See e.g. Appeals Chamber, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on Mr Al Hassan's request for a time extension, 12 May 2021, ICC-01/12-01/18-1470, para. 6.
[26] Request for Leave to Reply, ICC-RoR220-01/26-5-Conf-Exp, para. 3.
[27] Request for Leave to Reply, ICC-RoR220-01/26-5-Conf-Exp, paras 5, 6.
[28] Request for Leave to Reply, ICC-RoR220-01/26-5-Conf-Exp, paras 2, 8-11, 21-25.
[29] Presidency, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Decision on the 'Application for Judicial Review of the Registry Decision issued on the 17 June 2022' (ICC-RoR220-02/22-1), ICC-RoR220-02/22-5, 9 September 2022, para 18.

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B. Merits

16. At the outset, the Presidency notes that the Application raises a general question of procedural nature relating to the complaints procedure on detention matters. The Presidency considers that it must first address this issue before addressing the merits of the Application before it.

17. The Registry contends that the complaints procedure is triggered when there is a disagreement between a detained person and the ACCO, which can only materialise when the ACCO rejects a request by a detained person.[30] According to the Registry, it is only after a detained person is not satisfied with the response of the ACCO to an initial request that a complaint can be made to the ACCO.[31] As explained in the Email of 22 June 2026, it is the notification of such a 'refusal decision' by the ACCO that enables a detained person to exercise the right to submit a complaint pursuant to regulation 217(1) of the Regulations.[32] The Registry submits that in this case, the Complaint should be considered as an 'initial request' and the ACCO Decision as a decision rejecting this request.[33] It is this decision, the Registry submits, that should have been the subject of a complaint by Mr Yekatom.[34] Mr Yekatom, having failed to make a complaint with respect to the ACCO Decision, skipped a key step in the complaints procedure, rendering void the entire procedure.[35]

18. On this issue, Mr Yekatom submits that the Registry's position contravenes the language of regulation 217(1) of the Regulations, which provides that detained person may make a complaint against any matter concerning his or her detention '[a]t any time'.[36] It also infringes the detained person's ability to trigger the complaints procedure provided in this provision, by transferring it to the ACCO upon issuance of a 'refusal decision'.[37] In addition, Mr Yekatom points out that the ACCO Decision refers to the Complaint as a 'complaint' and was issued using the from used for ACCO decisions on complaints, and

[30] Observations, ICC-RoR220-01/26-4-Conf-Exp, paras 27, 29, 34.
[31] Observations, ICC-RoR220-01/26-4-Conf-Exp, para. 28.
[32] Email of 22 June 2026.
[33] Observations, ICC-RoR220-01/26-4-Conf-Exp, paras 26, 32.
[34] Observations, ICC-RoR220-01/26-4-Conf-Exp, para. 32.
[35] Observations, ICC-RoR220-01/26-4-Conf-Exp, para. 26; Email of 22 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 2.
[36] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 25-28.
[37] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 29-30.

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that the ACCO also referred to the 'complaint' in email exchanges.[38] Mr Yekatom submits that the Registrar's failure to issue a decision pursuant to regulation 219(3) of the Regulations was procedurally erroneous and unfair, depriving Mr Yekatom of the possibility to request judicial review by the Presidency and from receiving digital images of his family members.[39] Lastly, Mr Yekatom submits that the Presidency should not remit the matter to the Registrar but rather, consider the matter on the merits, noting, *inter alia*, the time passed since the Request of 30 June 2025.[40] Alternatively, the Presidency should order the Registry to issue a decision on the Request for Review within at most 14 days, as envisaged in the complaints procedure.[41]

19. The Presidency recalls that the complaints procedure is established in section 5 of chapter 5 of the Regulations. It provides for a multi-layer complaints procedure, involving decision-making by the Chief Custody Officer and the Registrar, followed by judicial review by the Presidency. The Presidency recalls that under regulation 217(1) of the Regulations, detained persons are entitled to make complaints '[a]t any time […] against any matter concerning his or her detention', with regulation 217(2) requiring that such complaint shall be made in writing. The Presidency considers that this clearly represents the first step of the complaints procedure. Nor the Regulations, nor any other applicable legal texts, provide that an initial request by a detained person must first be refused by the ACCO before the detained person can submit a complaint. The Registry itself provides no legal basis in support of this position.[42] The Presidency therefore finds no merits in the Registry's contention that the complaints procedure can only be triggered in case of disagreement between the detained person and the ACCO. The Presidency considers that adding such additional step in the complaints procedure is inconsistent with the clear procedure for complaints on detention matters as set out in the Regulations and without any legal basis.

20. Having examined the documents referred to in the Application, the Presidency considers, rather, that Mr Yekatom had properly initiated the complaints procedure. The Complaint pertains to the adoption of a policy governing the transmission of digital files from family members to detained persons, which is evidently a matter concerning Mr Yekatom's

[38] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 31-34.
[39] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 36-38.
[40] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 56-65.
[41] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 66-67.
[42] Observations, ICC-RoR220-01/26-4-Conf-Exp, paras 26-30.

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detention within the meaning of regulation 217(1) of the Regulations. The Complaint was submitted by Mr Yekatom using the standard form used for written complaints to the ACCO.[43] The ACCO Decision is found in the same form, in the section specifically dedicated to the decision taken by the ACCO a complaint.[44] The ACCO Decision, albeit stating that the Complaint appears to be an initial request rather than a complaint pursuant to regulation 217 of the Regulations, clearly decides on the merits of Complaint. In view of this, the Presidency considers that the ACCO Decision ought to have been considered as a decision taken by the ACCO on a complaint by Mr Yekatom, in accordance with regulation 218(5) of the Regulations and subject to review by the Registrar pursuant to regulation 218(6) and 219(1) of the Regulations.

For these reasons, the Presidency finds that the Registrar erred in law by refusing to take a decision on the Request for Review. Given this error, the Presidency finds that the matter should be remitted to the Registrar for consideration on its merits. In this of this finding, the Presidency will not address Mr Yekatom's other submissions in the Application.

IV. CLASSIFICATION

21. In view of the classification of the Application, the present decision is classified as confidential *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 30 September 2026.

[43] Complaint, ICC-RoR220-01/26-1-Conf-Exp-AnxF.
[44] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 15-22.

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THE PRESIDENCY HEREBY:

REMITS the matter to the Registrar for the issuance of a reasoned decision on the Request for Review.

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

Judge Tomoko Akane
President

Judge Rosario Salvatore Aitala
First Vice-President

Judge Reine Alapini-Gansou
Second Vice-President

Dated this 2 September 2026
At The Hague, The Netherlands

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