Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-RoR220-02/26**
Date: **16 October 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 17 September 2026' dated 25 September 2026 (ICC-RoR220-02/26-1-Conf-Exp)

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 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**

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

The Presidency of the International Criminal Court (the 'Court') has before it the application filed by Mr Alfred Yekatom ('Mr Yekatom') on 28 September 2026, seeking judicial review pursuant to regulation 220 of the Regulations of the Registry (the 'Regulations') of a decision issued by the Registrar on 17 September 2026 (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]

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.[4]

4. On 20 May 2026, the ACCO rejected the Complaint as unjustified (the 'ACCO Decision').[5] As a preliminary matter, the ACCO noted that it appears that the Complaint 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.[6] On the merits, the ACCO recalled that the transmission of audio-visual

[1] Defence for Mr Yekatom, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Yekatom Defence Application for judicial review of Registrar's decision of 17 September 2026, 25 September 2026, ICC-RoR220-02/26-1-Conf-Exp.
[2] Defence for Mr Yekatom, Request of 30 June 2025, ICC-RoR220-01/26-1-Conf-Exp-AnxC, pp. 2-5, *annexed to* Defence for Mr Yekatom, Corrected version of 'Yekatom Defence Application for judicial review of Registrar's decision of 22 June 2026', 7 July 2026, ICC-RoR220-01/26-1-Conf-Exp-Corr ('First Application'). The First Application was initially filed on 30 June 2026.
[3] Email from the Detention Centre to the Defence team for Mr Yekatom dated 31 July 2025, ICC-RoR220-01/26-1-Conf-Exp-AnxD, pp. 2-3, *annexed to* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[4] Defence for Mr Yekatom, Complaint, 4 May 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 3-14, *annexed to* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[5] ACCO Decision, 20 May 2025, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 15-22, *annexed to* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[6] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, p. 16.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

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.[7]

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').[8] Mr Yekatom also argued 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.[9] Mr Yekatom requested the Registrar to direct the ACCO to adopt a dedicated system for detained persons to access audio-visual material from family members or, should this not be feasible, authorise Mr Yekatom to receive audio-visual material from his family.[10]

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.[11] 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'.[12] In subsequent emails to the Defence team for Mr Yekatom, the Registry observed that 'there appears to be a disagreement on what

[7] ACCO Decision, ICC-RoR220-01/26-1-Conf-Exp-AnxF, pp. 16-21.
[8] Defence for Mr Yekatom, Request for Review, 28 May 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxG, pp. 4, 6-8, *annexed to* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[9] Request for Review, ICC-RoR220-01/26-1-Conf-Exp-AnxG, pp. 4, 9-19.
[10] Request for Review, ICC-RoR220-01/26-1-Conf-Exp-AnxG, p. 19.
[11] Email of the Registry to the Defence team for Mr Yekatom dated 8 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI ('Email of 8 June 2026'), p. 5, *annexed to* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[12] Email of 8 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 5.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

would be the initial request to the ACCO' which would trigger the complaint,[13] and 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').[14] The Registry explained that, in the present case, the ACCO Decision was 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.[15]

7. On 30 June 2026, Mr Yekatom filed the First Application, seeking judicial review of the Registrar's rejection of the Request for Review by the Presidency pursuant to regulation 220(1) of the Regulations.[16] Mr Yekatom submitted 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.[17]

8. On 3 July 2026, the Registry transmitted a relevant supporting document relating to the First Application pursuant to regulation 220(3) of the Regulations.[18] 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*.[19] On 7 July 2026, these two requests were granted by the Presidency.[20]

[13]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* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[14] 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* First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[15] Email of 22 June 2026, ICC-RoR220-01/26-1-Conf-Exp-AnxI, p. 2.
[16] First Application, ICC-RoR220-01/26-1-Conf-Exp-Corr.
[17] Application, ICC-RoR220-01/26-1-Conf-Exp-Corr, paras 22-23.
[18] Registrar, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Registry Transmission pursuant to Regulation 220(3) of the Regulations of the Registry and Additional Registry Requests, 3 July 2026, ICC-RoR220-01/26-2-Conf-Exp (the 'Transmission of 3 July 2026'), paras 1, 6-8.
[19] Transmission of 3 July 2026, ICC-RoR220-01/26-2-Conf-Exp, paras 1, 23.
[20] 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.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

9. On 16 July 2026, the Registrar submitted observations pursuant to regulation 220(4) of the Regulations.[21] On 21 July 2026, Mr Yekatom submitted a request for leave to reply to these observations (the 'Request to Reply').[22]

10. On 2 September 2026, the Presidency rejected the Request to Reply.[23] It further decided that Mr Yekatom had properly initiated the complaints procedure and that the Registrar had erred in law by refusing to take a decision on the Request for Review.[24] The Presidency therefore decided to remit the matter to the Registrar for the issuance of a reasoned decision on the Request for Review.[25]

11. On 17 September 2026, the Registrar issued a decision partially granting the Request for Review (the 'Impugned Decision').[26]

12. On 28 September 2026, Mr Yekatom filed the present Application seeking judicial review of the Impugned Decision pursuant to regulation 220(1) of the Regulations.[27]

13. On 30 September 2026, the Registrar transmitted supporting documents to the Presidency in accordance with regulation 220(3) of the Regulations (the 'Transmission'), and sought an extension of time until 12 October 2026 to file observations pursuant to regulation 220(4) of the Regulations.[28] On 1 October 2026, the Presidency granted the request.[29]

14. On 12 October 2026, the Presidency received an Addendum filed by Mr Yekatom seeking to make further submissions before the Presidency in connection with the 'Seminar on

[21] Registry, *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.
[22] 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.
[23] Presidency, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, 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), 2 September 2026, ICC-RoR220-01/26-6-Conf-Exp (the 'Presidency Decision of 2 September 2026'), para. 15.
[24] Presidency Decision of 2 September 2026, ICC-RoR220-01/26-6-Conf-Exp, para. 20.
[25] Presidency Decision of 2 September 2026, ICC-RoR220-01/26-6-Conf-Exp, p. 11.
[26] Registrar, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Remittal Decision on Mr Alfred Yekatom's Request for Review dated 28 May 2026, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 56.
[27] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 1.
[28] Registrar, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Registry Transmission pursuant to Regulation 220(3) of the Regulations of the Registry and Request for an Extension of Time Limit, 30 September 2026, ICC-RoR220-02/26-2-Conf-Exp, paras 1, 9, 12.
[29] Presidency, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Decision on the request for extension of time limit to file Registry's observations pursuant to regulation 220(4) of the Regulations of the Registry, dated 30 September 2026 (ICC-RoR220-02/26-2-Conf-Exp), 1 October 2026, ICC-RoR220-02/26-3-Conf-Exp, p. 4.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

New Technologies in Detention'(the 'Technology Seminar') held at the Court on 5-6 October 2026 (the 'Addendum').[30]

15. On 12 October 2026, the Registrar submitted his observations on the Application, pursuant to regulation 220(4) of the Regulations (the 'Observations').[31]

II. IMPUGNED DECISION

16. The Impugned Decision observes that the Request for Review requests the establishment of a policy to the benefit of all detained persons, including Mr Yekatom, and, in the alternative, a system that would benefit only Mr Yekatom.[32] The Impugned Decision considers that access to digital files, be it to the benefit of all detained persons or Mr Yekatom only, raises the same legal, security and operational issues.[33] Accordingly, the Impugned Decision decides to address the Request for Review concerning a general access by all detained persons to non-privileged digital files on their respective computers (the 'Requested Policy').[34]

17. The Impugned Decision considers that the Court's legal framework does not provide for an absolute entitlement to access digital material as part of a meaningful right to maintain family ties.[35] The Impugned Decision explains that, rather, what is under review is whether Mr Yekatom's right to family life remains meaningful even in the absence of the Requested Policy and, in particular, whether the limitations, as described in the ACCO Decision, relating to legal, security and operational aspects of the Requested Policy, were justified.[36]

18. As regards legal limitations, the Impugned Decision recalls that section 5.1 of the *Policy on case related computer use and printing at the ICC Detention Centre* provides that detained persons shall not have access to internet or electronic mail at the Detention

[30] Defence for Mr Yekatom, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Addendum to Yekatom Defence Application for judicial review of Registrar's decision of 17 September 2016, 9 October 20126, ICC-RoR220-02/26-4-Conf-Exp.
[31] Registry, *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, Registry Observations pursuant to Regulation 220(4) of the Regulations of the Registry, 12 October 2026, ICC-RoR220-02/26-5-Conf-Exp.
[32] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 14-15.
[33] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 15.
[34] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 15.
[35] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 19-20.
[36] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 17, 24, 43.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

Centre.[37] The Impugned Decision considers that: digital material is not merely another form of 'correspondence' within the meaning of regulation 99(1) of the Regulations of the Court;[38] the current legal framework excludes the exchange of non-privileged information on the detained persons' computers;[39] and the Requested Policy would require a 'fundamentally different Information Technology ("IT") system to be put in place'.[40] Accordingly, the Impugned Decision finds that, as stated in the ACCO Decision, the request to have in place the Requested Policy is not foreseen in the Court's legal framework and cannot be implemented as such.[41]

19. As regards limitations relating to security risks and operational challenges, the Impugned Decision rejects Mr Yekatom's arguments that access to non-privileged digital files would pose no additional risk compared to accessing privileged case-related digital files, and that the ACCO Decision lacked a resource-based justification.[42] It explains that inspection procedures for non-privileged information would entail additional human and technical resources and different IT-equipment.[43] The Impugned Decision also rejects Mr Yekatom's argument that the level of security screening and inspection procedures applicable to digital files would equate to that of traditional correspondence and mail.[44]

20. Furthermore, the Impugned Decision finds that Mr Yekatom's personal circumstances were duly considered by the ACCO.[45] The Impugned Decision notes that Mr Yekatom was provided with reasonable and effective communication channels throughout his time in detention, including access to written correspondence, phone calls and video-calls, and that the ACCO Decision proposed to explore the possibility of more frequent video-conference calls between Mr Yekatom and his family.[46] It also explains that while digital material was transmitted to Mr Yekatom in the past, this could only be exceptional as it posed, *inter alia*, technical issues.[47]

[37] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 27.
[38] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 28.
[39] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 30-31.
[40] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 34.
[41] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 35.
[42] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 40.
[43] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 39-40.
[44] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 42.
[45] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 48-50, 52.
[46] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 48-49.
[47] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, paras 50-51.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

21. In light of the above, the Impugned Decision concludes that Mr Yekatom's right to maintain family links has been respected as the limitations thereto are justified, proportionate and reasonable.[48] In conclusion, the Registrar notes that he is exploring other viable solutions, and in this regard, refers to the Technology Seminar.[49] The Impugned Decision explains that depending on the outcomes of this seminar, the Registrar may consider carrying out a feasibility assessment of an import system of digital files at the Detention Centre as an additional communication channel between detained persons and their family members.[50] Accordingly, the Impugned Decision partially grants the Request for Review insofar as the Registrar may consider carrying out such feasibility assessment.[51]

III. SUBMISSIONS

A. Application

22. Mr Yekatom requests that the Presidency order the Registrar to adopt a policy for detained persons to access audio-visual material from family members, or, should this not be feasible, order the Registrar to authorise Mr Yekatom to receive audio-visual material from family members.[52]

23. First, Mr Yekatom submits that the Impugned Decision failed to take into account the alternative relief sought in his Request for Review, as a standalone relief which could be granted in the absence of a governing policy, and the open-ended nature of the modalities for the transmission of digital material requested by Mr Yekatom.[53] Mr Yekatom asserts that, as a result, the Impugned Decision set flawed legal parameters for the review of the ACCO Decision and cited legal limitations which cannot justify the rejection of the Request for Review.[54] Mr Yekatom submits, similarly, that the security and technical challenges cited in the Impugned Decision cannot justify the rejection of the Request for Review, as they are 'modality-specific' and 'entirely surmountable'.[55] In addition, Mr Yekatom submits that the Impugned Decision failed to take into account the benefits

[48] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 52.
[49] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 54.
[50] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 55.
[51] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp-AnxI, para. 56.
[52] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 30.
[53] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 3, 5-8, 10-11, 15, 20.
[54] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 12-13.
[55] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 14.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

unique to audio-visual material of family members for detained persons, and the 'relative rarity' of family visits for Mr Yekatom.[56] Mr Yekatom also claims that the Registrar failed to meaningfully take into account prior occasions on which the transmission of audio-visual material was permitted, which demonstrate that the transmission of audio-visual material is consistent with the legal, security and operational requirements of the Detention Centre, and notes the 'sheer paucity of reasoning' provided to justify that such transmission can only be exceptional.[57]

24. Second, Mr Yekatom submits that the Impugned Decision's conclusion that the Request for Review is 'partially granted' was unreasonable.[58] Mr Yekatom asserts that the Registrar has not undertaken to adopt an import system for digital files, nor to conduct an assessment of the feasibility of such system.[59] Mr Yekatom also takes issue with the fact that the Impugned Decision states that such feasibility assessment is contingent upon the outcomes of an upcoming seminar.[60] The conclusion gives rise to procedural unfairness, by allowing the Registrar to suspend his consideration of the sought relief and rendering this matter indefinitely pending and hampering the Presidency in its ability to exercise meaningful judicial oversight as regards whether the Registrar is meeting his responsibilities with regards to communications to detained person and the maintenance of family ties.[61]

B. Registrar's Observations

25. The Registrar submits that the Application should be rejected.[62] As a preliminary matter, the Registrar submits that the Addendum should be dismissed *in limine*, for lacking any legal basis, rejecting the Defence's submission that it is not prejudicial to the Registrar.[63] The Registrar submits that the Impugned Decision did not fail to take relevant considerations into account, detailing the manner in which both authorisation of Mr Yekatom individually to receive audio-visual material[64] and the possibility of open-ended

[56] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 16.
[57] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 17-19.
[58] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 4, 25.
[59] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 21-22.
[60] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 23-24.
[61] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 26-27.
[62] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 2, 59.
[63] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 10-13.
[64] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 17-30.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

modalities of transmission for such material[65] were taken into account in the Impugned Decision. The Registrar also submits that the Impugned Decision properly took into account previous instances of the transmission of such material on an *ad hoc* basis.[66] Finally, the Registrar submits that the Impugned Decision's determination that it had partially granted the Defence's request was both accurate, when appraised correctly, and, in any event, had no impact on the outcome of the Impugned Decision, nor on procedural fairness.[67]

IV. DETERMINATION OF THE PRESIDENCY

A. Standard for judicial review and applicable law

26. 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.[68]

B. Preliminary Procedural Matter

27. Mr Yekatom submits that the Addendum should be accepted, either pursuant to the Presidency's inherent powers or pursuant to regulation 217(3)(b) of the Regulations which pertains to the variation of applicable time limits.[69] The Defence considers the Addendum of relevance because the Technology Seminar was 'a key element of the Registrar's reasoning underpinning his rejection of Mr Yekatom's Request for Review'.[70]

---

[65] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 31-37.
[66] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 39-48.
[67] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 51-58.
[68] 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.
[69] Addendum, ICC-RoR220-02/26-4-Conf-Exp, para. 6.
[70] Addendum, ICC-RoR220-02/26-4-Conf-Exp, para. 3.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

The Registrar submits that the Defence has failed to provide a proper legal basis for the acceptance of the Addendum, avers that no good cause to admit it has been established and considers that it causes prejudice and that, if accepted, the Registrar should have an appropriate opportunity to respond to it.[71]

28. For the reasons set out below, the Presidency has found the submissions in the Addendum irrelevant to its consideration of the merits of the Application. It has not taken the Addendum into account and does not consider it necessary to determine the legal question of whether the Addendum could be accepted.

C. Merits

29. The Application submits that the Impugned Decision: (i) failed to take into account relevant factors; and (ii) that its conclusion that the Request for Review is 'partially granted' is unreasonable.

(i) Whether the Impugned Decision failed to take into account relevant factors

30. Mr Yekatom submits that the Impugned Decision failed to take into account: i) the alternative relief sought; ii) the open-ended nature of the modalities of transmission proposed by Mr Yekatom; iii) the benefits of receiving audio-visual material from family members for detained persons; iv) and prior occasions on which the transmission of audio-visual material was permitted.[72]

31. The Presidency observes that the Impugned Decision, at the outset, sets out the scope of the Request for Review, identifying the two-limbs of the relief sought, although noting some of evolution of Mr Yekatom's claim in this respect.[73] The Impugned Decision explains that access to digital files, be it for all detained persons or for Mr Yekatom alone, raises the same legal, security and operational issues and for this reason, decides to address the Request for Review concerning a general access be all detained persons, including Mr Yekatom, to family-related digital files.[74] Mr Yekatom disagrees with this approach. Such disagreement, however, does not demonstrate that the Registrar has failed to consider the correct scope of the Request for Review. The Presidency considers that it

[71] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 10-13.
[72] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 3, 5-8, 10-11, 15-19.
[73] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, para. 14.
[74] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 14-15.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

was within the discretion of the Registrar to address the arguments in the Request for Review in the manner he found reasonable, in view of his overall responsibility for all aspects of the overall management of the Detention Centre. The Presidency is also convinced by the submissions of the Registry that, when assessed contextually, the Impugned Decision demonstrated clear awareness that the Application pertained both to a policy limb and an alternative specific relief for Mr Yekatom and that both limbs were adequately addressed.[75] The Presidency finds no error in the approach taken by the Registrar and finds that Mr Yekatom fails to demonstrate that the alternative relief was not properly taken into account.

32. Turning to Mr Yekatom's argument that the Impugned Decision failed to take into account the open-ended nature of the modalities of transmission proposed by him, the Presidency finds this argument unpersuasive. The Presidency recalls that the Impugned Decision determined that legal, security and operational issues arise from the transmission of digital material to detained persons.[76] In so doing, the Impugned Decision does not limit itself to considering a single modality for the transmission of audio-visual material. Rather, while expressly rejecting the modality of the use of computers contained in detained person's cells,[77] the Impugned Decision refers to other potential modalities, such as the need for different IT equipment and assesses technical factors and risks which may be relevant across various modalities.[78] Mr Yekatom does not explain the significance of this factor and how it would have impacted the Impugned Decision, nor does he point to a specific submission in the Request for Review which he suggests was ignored by the Registrar. Mr Yekatom refers, rather, to the Request of 30 June 2025 in which he had asked the ACCO to receive digital material on his computer or, should his request be denied, that the ACCO indicates to him 'any alternative procedure or solution'.[79] The Impugned Decision refers, for its part, to the Request of 30 June 2025 and the Request for Review which, the Presidency observes, mentions the transfer of digital material to Mr Yekatom's computer.[80] The Presidency considers that Mr Yekatom does not demonstrate that the Registrar failed to consider any aspect of the Request for Review and the Registrar's treatment of this issue was reasonable in its context. In this

[75] Observations, ICC-RoR220-02/26-5-Conf-Exp, paras 17-30.
[76] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, para. 43.
[77] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 30-31.
[78] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, para. 39.
[79] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 9.
[80] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 3, 16.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

regard, the Presidency notes that an open-ended requested cannot place the Detention Centre and Registrar under an obligation to continue considering matter until a solution is found.

33. The Presidency finds equally unconvincing Mr Yekatom's arguments that the Registrar failed to take into account the benefits of receiving audio-visual material from family members and prior occasions on which transmission of audio-visual material was permitted. The Presidency notes that the Registrar expressly acknowledged the difficulties that Mr Yekatom and his family are facing, and the legitimate wish of Mr Yekatom to access family-related digital files in detention, and stated that he understands the *rationale* behind the Requested Policy, and that family's circumstances are an important part of the assessment.[81] The Registrar also expressed being mindful of the realities of long-term detention of Court's detained persons and the need to encourage, where available, the use of modern forms of communications in detention.[82] He further noted that the ACCO has allowed on occasions, and on an exceptional basis, transmission of digital material to Mr Yekatom, noting that these transmissions can only be exceptional as they pose, *inter alia*, technical issues.[83] In view of these considerations, the Presidency rejects Mr Yekatom's submissions, as the Registrar clearly knew and assessed these relevant facts.

34. In light of the above, the Presidency finds that the Application fails to establish that the Registrar failed to take into account relevant factors in the Impugned Decision.

(ii) Whether the Impugned Decision's conclusion was unreasonable

35. Mr Yekatom submits that the conclusion of the Impugned Decision is unreasonable and causes procedural unfairness.[84] The Presidency notes that the Impugned Decision partially grants the Request for Review 'insofar as [the Registrar] may consider carrying out a feasibility assessment of an import system of digital files at the [Detention Centre] as an additional communication channel between the detainees and their family members' subject to the outcomes of a Registry-led seminar on new technology at the

[81] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 24, 53.
[82] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, para. 53.
[83] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 36, 50, 51.
[84] Application, ICC-RoR220-02/26-1-Conf-Exp, paras 4, 21-27.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as "Public"

Detention Centre and subject to consultations with relevant Court's stakeholders and discussions on the required amendments of the Court's legal framework.[85]

36. The Presidency notes that while these considerations present a direct nexus with the issues raised in the Request for Review, it does not mean, however, that the Request for Review is partially granted. This is because, in fact, none of the reliefs sought by Mr Yekatom are acceded to. At most, the Impugned Decision simply points to positive indicators that the concerns of Mr Yekatom are, to a certain extent, being taken into account by the Registrar.

37. Nevertheless, the Presidency considers that the imprecise conclusion of the Impugned Decision does not, as a practical matter, impact the outcome of the decision in any way nor does it create procedural unfairness. While it would have been preferable that the Impugned Decision conclude that the Request for Review is rejected, the Presidency sees no practical benefit in ordering that the Impugned Decision be issued anew with a reformulated conclusion, nor does it consider that the Impugned Decision may be overturned on this basis. Accordingly, the Presidency rejects this argument.

V. CLASSIFICATION

38. The Presidency recalls the Application's request that the Application be reclassified as public, considering that there is no legal or factual basis to justify its confidential *ex parte* classification.[86] Nonetheless, the Presidency is also cognisant that, at times, information related to the management of the Detention Centre may appropriately need to be kept out of the public domain. Mr Yekatom and/or the Registrar may make submissions to the Presidency on whether the current classification of this Decision, the Application and the Observations should be obtained by no later than by 4pm on 30 October 2026.

[85] Impugned Decision, ICC-RoR220-02/26-2-Conf-Exp, paras 55-56.
[86] Application, ICC-RoR220-02/26-1-Conf-Exp, para. 29.

Pursuant to The Presidency decision ICC-ROR220-02/26-9, dated 10 November 2026, this document is reclassified as “Public”

THE PRESIDENCY HEREBY

REJECTS the Application.

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

赤根智子

Judge Tomoko Akane
President

Judge Rosario Salvatore Aitala
First Vice-President

Judge Reine Alapini-Gansou
Second Vice-President

Dated this 16 October 2026

At The Hague, The Netherlands