

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/14-01/18
Date: 16 December 2019

PRE-TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR *v.* ALFRED YEKATOM AND PATRICE-EDOUARD
NGAISSONA**

**Confidential *EX PARTE* only available to the Defence for Mr Yekatom, the
Prosecutor, and the Registry**

**Tenth Registry Report on the Implementation of the Restrictions on Contact of Mr
Alfred Yekatom Ordered by Pre-Trial Chamber II**

Source: Registry

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

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Legal Representatives of the Victims

Legal Representatives of the Applicants

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

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

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**Victims Participation and Reparations
Section**

I. Introduction

1. Following the “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Seventh Decision”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 15 April 2019, in which the Registry is ordered to report on the implementation of the restrictions on contact of Alfred Yekatom (“Mr Yekatom”) every two months, the Registry hereby submits its report on the monitoring of Mr Yekatom’s non-privileged telephone calls, visits and incoming and outgoing mail since 15 October 2019. By this report, the Registry informs the Chamber that no incident was reported.

II. Procedural history

2. On 17 November 2018, the Single Judge 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.²
3. On 10 January 2019, the Single Judge issued the “Third Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Third Decision”), deciding, *inter alia*, to allow Mr Yekatom private family visits from his wife and children, without any monitoring or sensitive listening devices, and extended the remaining restrictive measures until 1 February 2019.³

¹ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Seventh Decision”), 15 April 2019, ICC-01/14-01/18-176-Conf-Red, paras. 6-9.

² 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.

³ 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.

4. Following several Chamber's decisions on the monitoring regime and related Registry's Reports,⁴ the Chamber issued, on 1 March 2019, the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Sixth Decision"), 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 Chamber issued the Seventh Decision deciding, *inter alia*, to extend the restrictive measures for the remainder of the pre-trial proceedings.⁶ The Decision also requested the Registry to ensure that time required to set up a telephone call does not affect the time allotted to speak on the phone.⁷

⁴ Registry, "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge", 30 November 2018, ICC-01/14-01/18-23-Conf-Exp; Pre-Trial Chamber II, "Second Decision Pursuant to Regulation 101 of the Regulations of the Court", 4 December 2018, ICC-01/14-01/18-25-Conf-Exp, para. 8; Registry, "Second Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre Trial Chamber II", 14 December 2018, ICC-01/14-01/18-32-Conf-Exp ; Pre-Trial Chamber II, "Third Decision Pursuant to Regulation 101 of the Regulations of the Court", 10 January 2019, ICC-01/14-01/18-52-Conf-Exp, para. 18 ; Registry, "Third Registry Report on the Implementation of the Restrictions on Contact Ordered by the Pre-Trial Chamber II", 23 January 2019, ICC-01/14-01/18-62-Conf-Exp; Pre-Trial Chamber II, "Fourth Decision Pursuant to Regulation 101 of the Regulations of the Court", 1 February 2019, ICC-01/14-01/18-75-Conf-Exp, para 18; Registry, "Fourth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre-Trial Chamber II", 11 February 2019, ICC-01/14-01/18-81-Conf-Exp ; Pre-Trial Chamber II, "Fifth Decision Pursuant to Regulation 101 of the Regulations of the Court", 15 February 2019, ICC-01/14-01/18-86-Conf-Exp, para. 18; Registry, "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II, 25 February 2019, ICC-01/14-01/18-124-Conf-Exp; Registry, "Sixth Registry Report on the Implementation of the Restrictions on Contact Ordered by Pre Trial Chamber II", 8 April 2019, ICC-01/14-01/18-167-Conf-Exp.

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

⁶ Seventh Decision, para. 32.

⁷ *Idem*.

6. On 17 June 2019, the Registry submitted the "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II" ("Seventh Registry Report"),⁸ reporting no incidents.
7. On 9 July 2019, the Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Eighth Decision"), ordering, *inter alia*, the Registry to substantially increase the frequency of random monitoring of telephone calls for specific contacts identified in the Seventh Registry Report.⁹
8. On 15 August 2019, the Registry submitted the "Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II",¹⁰ reporting no incidents.
9. On 17 September 2019, the Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Ninth Decision"), finding that the restrictions on contacts shall continue for the remainder of the pre-trial proceedings.¹¹
10. On 15 October 2019, the Registry submitted the "Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber II" ("Ninth Registry Report"), reporting no incidents.¹²
11. On 6 December 2019, the Chamber issued the "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Tenth Decision"), deciding, *inter alia*, to maintain the restrictions on Yekatom's contacts, with no changes.¹³

⁸ Registry, "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber", 17 June 2019, ICC-01/14-01/18-226-Conf-Exp.

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

¹⁰ Registry, "Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber", 15 August 2019, ICC-01/14-01/18-277-Conf-Exp.

¹¹ 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.

¹² Registry, "Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Alfred Yekatom Ordered by Pre-Trial Chamber", 15 October 2019, ICC-01/14-01/18-386-Conf-Exp.

III. Classification

12. In accordance with regulation 23 *bis* (1) of the Regulations of the Court ("RoC"), the present report is classified as confidential *ex parte* only available to the Defence, the Prosecutor, and the Registry, following the Chamber's decisions with the same designation, and as the report contains sensitive information on Mr Yekatom's private life and detention-related matters.

IV. Applicable law

13. For the purpose of the present submission, the Registry has considered regulations 99(1)(h), (i) and 100 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 179, 180, and 183 of the Regulations of the Registry ("RoR").

V. Submissions

Non-privileged telephone calls

14. The Registry implemented the Chamber's Ninth Decision by maintaining the existing contact restrictions and continuing to actively monitor Mr Yekatom's non-privileged communications.

15. During the reporting period, Mr Yekatom made telephone calls to the individuals on his non-privileged telephone contact list according to an implemented time schedule. As previously reported to the Chamber,¹⁴ this includes time required to set up, connect or reconnect a telephone call. The Registry acknowledges that calls are sometimes dropped or experience

¹³ Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court" ("Tenth Decision"), 6 December 2019, ICC-01/14-01/18-402-Conf-Exp, para. 28.

¹⁴ Eighth Registry Report, para. 19; Ninth Registry Report, para. 21.

connection problems with the Central African Republic telephone networks. To counter these challenges, the Registry currently offers Mr Yekatom two time periods a week, for 60 minutes each time period, in order to facilitate his non-privileged telephone calls as best as possible. This is despite the fact that the Chamber has authorized only 60 minutes of monitored telephone calls a week.

16. During the reporting period, the Registry implemented the Chamber's Sixth Decision and Eight Decision by actively monitoring the scheduled telephone calls made by Mr Yekatom at random, and substantially increasing the random monitoring for the specific contacts concerned by the Seventh Registry Report.¹⁵ No incidents were reported.

17. Finally, the Registry recalls that all telephone calls are simultaneously recorded, pursuant to regulation 174 of the RoR, whether or not the particular telephone call is subject to the random active monitoring.

18. Regarding adding additional contacts to non-privileged telephone contact lists, the Registry carefully and duly verifies all persons before the adding a new name to a detained person's contact list. For Mr Yekatom, the Chief Custody Officer requests the Victims and Witnesses Unit for support as necessary. The Registry has no concerns to report to the Chamber in this regard during this reporting period.

Non-privileged Visits

19. Pursuant to the Third Decision and the Sixth Decision, Mr Yekatom's non-privileged visits shall be actively monitored at random as frequently as

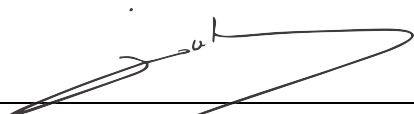
¹⁵ Eighth Decision, para. 27. See the Chamber's Eighth Decision to substantially increase the random active monitoring of the specific contacts concerned by the Seventh Registry Report.

possible, with the exception of family visits from his wife and children only.¹⁶ Accordingly, the latter are supervised in accordance with regulation 183 and regulation 185 of the RoR. The Registry informs the Chamber that it has fully implemented this Decision and that no incidents were reported.

20. As previously reported, all non-privileged visits, other than from his wife and children, are simultaneously audio recorded whether or not they are subject to random active monitoring at the time.¹⁷

Incoming and outgoing mail

21. Any written correspondence or packages that are sent or received, pursuant to regulations 168, 169 and 170 of the RoR, will be closely monitored in accordance with the relevant aforementioned Chamber Decisions and regulations. The Registry does not have any incidents or concerns to report for this reporting period.



Mare Dubuisson
Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 16 December 2019

At The Hague, The Netherlands

¹⁶ Sixth Decision, para. 19; see also Third Decision, para. 18.

¹⁷ Eighth Registry Report, para. 26; Ninth Registry Report, para. 27.