

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/14-01/18**

Date: **17 February 2021**

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 ROMBHOT YEKATOM & PATRICE-EDOUARD NGAÏSSONA***

PUBLIC

**Public Redacted Version of the “Yekatom Defence Observations on Twelfth Registry Report on the Implementation of the Restrictions on Contacts by Mr. Alfred Yekatom Ordered by Pre-Trial Chamber II”, 28 February 2020,
ICC-01/14-01/18-494-Conf**

Source: Defence for Mr. Alfred Rombhot Yekatom

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

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**Unrepresented Applicants
(Participation / Reparation)**

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**Victims Participation and Reparations
Section**

1. Counsel representing Mr. Alfred Rombhot Yekatom (“Defence” and “Mr. Yekatom”, respectively) respectfully submit their observations on the *Twelfth Registry Report on the Implementation of the Restrictions on Contacts by Mr. Alfred Yekatom Ordered by Pre-Trial Chamber II*. (“Registry Report”).¹ The Defence further requests that the Trial Chamber (“Chamber”) modify the restrictions to allow Mr. Yekatom to make phone calls three days per week, instead of the current two-day per week regime.
2. The *Registry Report* indicates that on one occasion during the reporting period, Mr. Yekatom breached the restrictions on discussing his case.² Mr. Yekatom apologises to the Detention Unit and the Chamber for this misstep on his part. When his nephew brought up the subject of the population’s reaction to the interim release motion, Mr. Yekatom should have stopped any discussion of his case. He regrets not doing so and promises that this will not happen again.
3. While Mr. Yekatom did regrettably breach the restrictions on discussing his case, his conversation in no way involved interference with or threats to Prosecution witnesses, nor did his conversation prejudice the outcome of the proceedings or investigation, nor did he disclose any confidential information. The breach is isolated in nature, as Mr. Yekatom has otherwise faithfully complied with these broad restrictions on his speech for 17 months.
4. The Defence does not object to disclosure of the transcript of the conversation to the Prosecution, so that it can satisfy itself that no issues related to the security of Prosecution witnesses are implicated.³

¹ [ICC-01/14-01/18-481-Conf-Exp.](#)

² *Id.*, para. 14.

³ See [ICC-01/14-01/18-490-Conf-Exp.](#)

5. In its recent *Decision on Mr. Yekatom's Restrictions on Contact and Communications in Detention* (17 April 2020),⁴ the Chamber determined that terminating active monitoring of Mr. Yekatom's telephone calls was not warranted and decided to maintain the 180 minute per week limit on Mr. Yekatom's telephone calls.
6. Mr. Yekatom respectfully requests that the 180 minutes be spread over three days instead of two. As detailed in previous Defence submissions, due to the Central African Republic's unreliable telephone network, Mr. Yekatom frequently cannot reach someone during the time he has to make phone calls. He is then unable to try again until three or four days later when he has his next window to make calls.⁵ Today was yet another example where Mr. Yekatom was unable to manage to contact his wife due to connectivity issues while she had previously indicated to Counsel that she had urgent family matters to communicate to Mr. Yekatom.
7. This has resulted in Mr. Yekatom feeling extremely frustrated and helpless. Recently, when his young infant had malaria, Mr. Yekatom was forced to burden his counsel for daily updates on the child's condition while he waited for his next opportunity to call. When his family traveled back from the Host State, Mr. Yekatom also asked his Counsel for regular updates as to their well being as a result of travel during the pandemic. On many other occasions, Mr. Yekatom could only ask his counsel to pass messages concerning personal issues with his wives and issues related to his business, Koya Securite, until the three days had passed and he could make another attempt at a call.

⁴ [ICC-01/14-01/18-485-Conf-Exp.](#)

⁵ [ICC-01/14-01/18-226-Conf-Exp-Red](#), para. 22; [ICC-01/14-01/18-414-Conf-Exp](#), para. 5; [ICC-01/14-01/18-433-Conf-Exp](#), paras 5-7.

8. The Pre-Trial Chamber considered these arguments and extended the time for Mr. Yekatom's calls from 60 to 90 minutes, two days per week.⁶ This accommodation, while greatly appreciated, did not solve the problem of the gaps between the days that Mr. Yekatom is allowed to call home.
9. There is, however, a changed circumstance between the time of that decision and the present situation. Previously, [REDACTED]. However, as a result of the coronavirus pandemic, [REDACTED].⁷ [REDACTED].
10. The Defence understands that while the ICC main building remains closed, [REDACTED]. But when the building reopens, [REDACTED]. Therefore, the Chamber is respectfully requested to modify the restrictions to allow telephone calls three days per week for 60 minutes each day, to take effect when the ICC building is reopened.
11. When balancing the right of the detained person to maintain family life and contact with the outside world with the necessity of ensuring the safety of witnesses, the preservation of evidence and the integrity of the proceedings, the proposed three-day 60 minute regime for Mr. Yekatom to make monitored telephone calls, as opposed to the current two-day 90 minute regime, mitigates the harm to him while causing no increased risk to witnesses.
12. Such a modification would also be consistent with the principle that the restrictions imposed must be the least restrictive possible to the rights of the detained person.
13. For all of these reasons, it is respectfully requested that the restrictions on contact be modified to allow Mr. Yekatom to make telephone calls during a 60-minute period for three days per week.

⁶ [ICC-01/14-01/18-441-Conf-Exp](#), para. 20.

⁷ [ICC-01/14-01/18-467-Conf-Exp](#), para. 16.

CONFIDENTIALITY

14. These observations are filed on a confidential *ex parte* basis because that is the designation provided in the *Registry Report*. The Defence urges the Chamber to issue a public redacted version of its decision and to order the reclassification of all related pleadings from *ex parte* to confidential, as well as the filing of public redacted versions.

RESPECTFULLY SUBMITTED ON THIS 17TH DAY OF FEBRUARY 2021



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