

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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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 YEKATOM AND PATRICE-EDOUARD
NGAISSONA**

PUBLIC

Public Redacted Version of “Third Registry Report on the Implementation of the Restrictions on Contact for Mr Alfred Yekatom”, ICC-01/14-01/18-945-Conf, filed on 6 April 2021

Source: Registry

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

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I. Introduction

1. Following the “Third Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention”¹ issued by Trial Chamber V (“Chamber”) on 11 November 2020, in which the Registry is ordered to report on the implementation of the restrictions on contact for Mr Alfred Yekatom (“Mr Yekatom”) every six months, the Registry hereby submits its report on the monitoring of Mr Yekatom’s non-privileged telephone calls, visits and written correspondence since 5 October 2020.

II. Procedural history

2. Pursuant to a series of decisions,² the Chamber has ordered the restrictions on Mr Yekatom’s contacts to be: (1) actively monitored at random non-privileged phone calls with authorized family members and other authorized individuals, whose identity and contact details have been duly verified beforehand by the Chief Custody Officer (“CCO”), who may request the support of the Victims and Witnesses Unit (“VWU”), for 180 minutes distributed in two 90 minutes periods two times a week; (2) actively monitored visits at random with authorized family members and other authorized individuals, with the exception of visits from his wife and children, whose identity and contact details have also been duly verified beforehand; (3) non-privileged communication is limited to the languages of French and Sango; and (4) the prohibition of obscure or coded language and discussions related to his case during non-privileged communications. The Chamber also ordered the Registry to submit reports on the implementation of the restrictions on contact every six months.³

¹ Trial Chamber V, “Third Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“11 November 2020 Decision”), 11 November 2020, ICC-01/14-01/18-727-Conf.

² Trial Chamber V, “Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“17 April 2020 Decision”), 17 April 2020, ICC-01/14-01/18-485-Conf, paras. 13, 30; Trial Chamber V, “Second Decision on Mr Yekatom’s Restrictions on Contacts and Communications in Detention” (“21 August 2020 Decision”), 21 August 2020, ICC-01/14-01/18-627, paras. 18-19, 24; 11 November 2020 Decision, paras. 18, 22, 26.

³ 11 November 2020 Decision, para. 33.

3. On 3 February 2021, the Chamber ordered the Registry to implement one video-conference session per month of 90 minutes for Mr Yekatom, with his family members and his mother.⁴

III. Classification

4. In accordance with regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the present report is classified as confidential as it refers to a decision of the same level of confidentiality, and it contains confidential internal operations of the Registry.

IV. Applicable law

5. For the purpose of the present submission, the Registry has considered regulations 99(1)(i), and 100 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 177, 179, 180, 183 and 184 of the Regulations of the Registry (“RoR”).

V. Submissions

In relation to non-privileged telephone calls

6. Pursuant to the Chamber’s restrictions on contacts, Mr Yekatom is authorized to make non-privileged telephone phone calls twice a week for a total of 180 minutes per week to authorized family members and other authorized individuals.⁵ The Registry does not have any incidents to report during the reporting period. However, the Registry wishes to report on certain challenges and solutions for actively monitored non-privileged telephone calls that have arisen due to the full-time trial schedule.
7. The Registry reports that, during a typical week without courtroom hearings, Mr Yekatom’s non-privileged telephone calls are usually scheduled on

⁴ Trial Chamber V, “Decision on Non-Privileged Video-Conferencing at the Detention Centre”, 3 February 2021, ICC-01/14-01/18-869-Red, para. 16.

⁵ 11 November 2020 Decision, para. 24.

[REDACTED], with a break for the interpreter. Telephone schedules take into consideration operational requirements for monitoring and the schedule of language staff.

8. During a full-day trial hearing the Registry is unable to offer 90 minute sessions of non-privileged telephone calls for Mr Yekatom and Mr Patrice-Edouard Ngaïssona ("Mr Ngaïssona"). This is because the active monitoring activities would thus take place well outside the working hours of the Court, and active monitoring involves multiple layers of Registry staff. It is recalled that, after the telephone calls themselves are completed there is often still several hours of work that needs to be completed in order to [REDACTED] the content of any conversations.
9. A typical full-day trial hearing is scheduled to end at 16:00, thus by the time the accused return to the Detention Centre ("DC"), the calls commence at approximately [REDACTED]. Therefore, in the case of full-day court hearings, the Registry is able to facilitate a single session of a maximum of 60 minutes of actively monitored phone calls per day, which takes place after the court hearing when Mr Yekatom or Mr Ngaïssona arrive back at the DC. The active monitoring sessions of 60 minutes per day are then rotated between Mr Yekatom and Mr Ngaïssona to ensure each accused has two days a week of active monitored telephone calls. It is thereafter the personal choice of the accused whether they wish to participate in their calls after their hearing, which is not always the case.
10. In addition, the available time to make phone calls can be further shortened depending on the arrival time of the detained persons back at the DC and the availability of the staff. Registry staff remains flexible in these situations, however there is a limit to what is possible in any given circumstance when monitoring falls outside of working hours. Furthermore, while the Registry tries to adjust the schedule to make up for the lost minutes, this is also not always

possible. However, the Registry does its upmost to remain flexible, find creative solutions, and communicate efficiently with Mr Yekatom and Mr Ngaïssona in every case.

11. Finally, the Registry confirms that when a hearing is adjourned mid-day or cancelled altogether, the schedule is adjusted and 90 minutes session of phone calls may typically take place.

In relation to video-conferencing

12. As ordered by the Chamber,⁶ the Registry has been offering the possibility for Mr Yekatom to benefit from one video-conference per month of 90 minutes, organized with the Central African Republic Country Office on a day in which there is no trial hearing. The Registry has no incidents to report.

13. The Registry recalls its previous observations to the Chamber that it envisaged that “the video-conference will take the place of one day of actively monitored telephone calls on the scheduled week”.⁷ While this was not in place during the first two months, the Registry will be implementing this change in Mr Yekatom’s schedule next month, in order to balance the Registry resources used in both activities during that week, which otherwise adds an additional day of active monitoring for Registry staff and the Sango interpreter.

In relation to in-person visits

14. The Registry recalls that the DC COVID-19 measures are currently in place until at least 19 April 2021 (inclusive).⁸ Therefore, during the reporting period Mr

⁶ Trial Chamber V, “Decision on Non-Privileged Video-Conferencing at the Detention Centre”, 3 February 2021, ICC-01/14-01/18-869-Conf, para. 16.

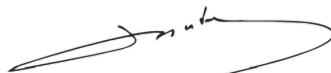
⁷ Registry, “Registry Observations on the Assessment of the Feasibility of using Video-Conferencing at the Detention Centre”, 9 December 2020, ICC-01/14-01/18-760-Conf, para. 13.

⁸ Registry, “Tenth Registry Update on Detention Centre COVID-19 Measures” (“Tenth COVID-19 Update”), 19 March 2021, ICC-01/14-01/18-922, para. 4. These measures are in place to “protect the health, safety and lives of the detained persons” at the DC by limiting their exposure to COVID-19 as

Yekatom did not receive any non-privileged visits. When in-person visits resume at the DC, the Registry will fully implement the Chamber's restrictions on contact by actively monitoring at random Mr Yekatom's non-privileged visits, with the exception of his wife and children.⁹

In relation to written correspondence

15. In the 17 April 2020 Decision, the Chamber ordered that Mr Yekatom is prohibited to send or receive written correspondence that contains obscure or coded language, or mentioning his case.¹⁰ As per the 17 April 2020 Decision and regulations 168 and 169 of the RoR, the Chief Custody Officer ("CCO") reviewed incoming and outgoing letters and did not have any concerns to report on their content.
16. Finally, the Registry respectfully requests the Chamber's confirmation of its understanding that Mr Yekatom's incoming and outgoing correspondence restrictions are not limited to individuals who are part of Mr Yekatom's non-privileged telephone/visitor list.¹¹



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

Dated this 1 June 2021

At The Hague, the Netherlands

much as possible, and include the suspension of regulation 100 of the RoC, and regulations 177, 179 and 180 of the RoR, which pertain to in-person visits.

⁹ 17 April 2020 Decision, para. 13.

¹⁰ *Ibid.*

¹¹ See e.g., Trial Chamber, "Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention", 17 April 2020, ICC-01/14-01/18-484-Red2, para. 15, whereby written correspondence is restricted to individuals that are on Mr Ngaïssona's non-privileged contact list.