

ANNEX 36

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 24 April 2023 13:18
To: Office of the Director DJSS; [REDACTED] D29 Yekatom Defence Team
Cc: OTP CAR IIB; Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Order for Registry observations on confidential redacted version of Yekatom Defence request regarding Decision ICC-01/14-01/18-1830-Conf-Exp

[ICC] RESTRICTED

Dear colleagues from the Registry,

The Single Judge takes note of the Yekatom Defence's request below, and instructs the Registry to provide its observations on the request by latest Wednesday, 26 April 2023.

The Single Judge further instructs the Yekatom Defence and the Registry to share the request and the observations, respectively, with all the other participants, with the necessary redactions.

Kind regards, TC V

From: [REDACTED]
Sent: 18 April 2023 17:29
To: Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] Office of the Director DJSS [REDACTED]
 [REDACTED]; OTP CAR IIB [REDACTED] >
Subject: Confidential Redacted version of Yekatom Defence request regarding Decision ICC-01/14-01/18-1830-Conf-Exp

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

Dear Trial Chamber V,

On 5 April 2023, the Trial Chamber V issued its "Eighth Decision on Mr Yekatom's Restrictions on Contacts and Communications in Detention" (ICC-01/14-01/18-1830-Conf-Exp). In this decision, the Chamber found that "it is no longer necessary nor proportionate to maintain the restrictions imposed on the telephone calls between Mr Yekatom and his children", and consequently that "the Registry is ordered to facilitate telephone calls between Mr Yekatom and his children, subject to passive monitoring".

No distinction or exception regarding Mr. Yekatom's children was made by the Chamber, the decision applies to all of them. In this regard, the Defence is seeking the Chamber's intervention regarding the implementation of this decision for some of Mr. Yekatom's children.

Indeed, the form that Mr. Yekatom completes to add individuals to his list of persons whom he can call states that : *"Les enfants âgés de moins de 18 ans ne peuvent être inscrits comme propriétaires de numéros de téléphone. Toute communication avec des enfants de moins de 18 ans doit être faite par le biais du téléphone d'un adulte"*. This rule is

causing issues as regards to underage children of Mr. Yekatom who cannot be called through the phone of their mother and or siblings older than 18.

On 6 April 2023, the Defence wrote to the CCO asking for a prompt implementation of the Chamber's decision and provided the Detention Center with a list of Mr Yekatom's [REDACTED] children and the telephone number through which he can reach them. On the same day, the CCO argued that there are two distinct lists of children : those who have their own telephone numbers and can be called anytime with only passive monitoring, and those who can only be contacted via the phone number of the non-privileged persons and whom can be reached during the scheduled times of active monitoring.

In response to this email, the Defence proposed a solution for two of his underage children that cannot be contacted through one of their older sibling : [REDACTED] and [REDACTED]. The proposed solution by the Defence would be that those two children could use the phone of their mother, on the basis that the communication would exclusively be done with the children and not their mother, other than to ask to speak to the daughter. Should Mr. Yekatom wish to talk with the mothers, he would wait until the scheduled day of communication with individuals that are still subjected to the restrictions on communication. As all the calls are subject to passive monitoring, the Detention Centre would be at liberty to verify that Mr Yekatom only spoke with his children and remove this possibility should any communications with the mothers occurred.

The Defence also indicated that it was open to any other solution that the Detention Centre could suggest as long as it permitted a prompt implementation of the Chamber's decision regarding all of Mr Yekatom's children without any distinction should they be under 18 years old or not.

On 13 April 2022, the Defence reiterated the need for a full implementation of the Chamber's order to the CCO, at the very least for [REDACTED]. No response has been received since by the Detention Center.

On 14 April 2023, the Defence contacted the Registry (DJSS) regarding the matter. On 17 April 2023, the Registry by asking the Defence to wait for a response from the Detention Centre : *"[I]a Section de la Détention, qui est la Section compétente, se penche actuellement sur les dernières informations reçues de votre part (courriel du 6 avril). Elle ne manquera pas de revenir vers vous en temps utile"*.

To this day, the Defence has still not been informed by the Detention Centre if full implementation of the Chamber's decision of 5 April 2023 was possible for the two remaining children.

Given the decision issued by the Chamber, of Mr. Yekatom's right to communicate with all of his children (especially with [REDACTED], [REDACTED] and remains on the DCC's list of the children who are still under active monitoring), and of the absence of any response from the Detention Centre, the Defence respectfully requests the intervention of the Chamber so the Chamber's decision can be fully implemented.

Kind regards,

[REDACTED]

Legal Intern – Yekatom Defence

This message contains information that may be privileged or confidential and is the property of the International Criminal Court. It is intended only for the person to whom it is addressed. If you are not the intended recipient, you are not authorized by the owner of the information to read, print, retain copy, disseminate, distribute, or use this message or any part hereof. If you receive this message in error, please notify the sender immediately and delete this message and all copies hereof.

Les informations contenues dans ce message peuvent être confidentielles ou soumises au secret professionnel et

elles sont la propriété de la Cour pénale internationale. Ce message n'est destiné qu'à la personne à laquelle il est adressé. Si vous n'êtes pas le destinataire voulu, le propriétaire des informations ne vous autorise pas à lire, imprimer, copier, diffuser, distribuer ou utiliser ce message, pas même en partie. Si vous avez reçu ce message par erreur, veuillez prévenir l'expéditeur immédiatement et effacer ce message et toutes les copies qui en auraient été faites.