

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/14-01/18
Date: 26 February 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 Redacted version of “Second Registry Report on the Implementation of the Restrictions on Contact of Mr Patrice-Édouard Ngaïssona Ordered by the Single Judge”, dated 25 February 2019, ICC-01/14-01/18-125-Conf-Exp

With Confidential Redacted Annexes I and II

Source: Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for the Defence

Mr Geert-Jan Alexander Knoops

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

Detention Section

Mr Paddy Craig

**Victims Participation and Reparations
Section**

I. Introduction

1. Following the “Third Decision pursuant to Regulation 101 of the Regulations of the Court” (“Third Decision”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 6 February 2019, in which the Registry is ordered to report on the implementation of the restrictions on contact for Patrice-Édouard Ngaïssona (“Mr Ngaïssona”) imposed in accordance with the Chamber’s “Decision pursuant to Regulation 101 of the Regulations of the Court” (“First Decision”)², the Registry hereby submits its report on the monitoring of Mr Ngaïssona’s non-privileged telephone calls, visits and incoming and outgoing mail during the second reporting period. By this report, the Registry informs the Chamber that no incident has been reported.

II. Procedural history

2. On 23 January 2019, Mr Patrice-Édouard Ngaïssona was transferred to the ICC Detention Centre (“DC”) where he is currently held.
3. On 23 January 2019, the Single Judge of Pre-Trial Chamber II issued the First Decision in which the Registry was, *inter alia*, directed to put in place several measures that restrict Mr Ngaïssona’s contact with the outside world through written correspondence, non-privileged telephone calls and family visits.³

¹ Pre-Trial Chamber II, “Third Decision pursuant to Regulation 101 of the Regulations of the Court”, 6 February 2019, ICC-01/14-02/18-27-Conf-Exp.

² Single Judge, “Decision pursuant to Regulation 101 of the Regulations of the Court”, 23 January 2019, ICC-01/14-02/18-11-Conf-Exp.

³ *Ibid.*, paras 7-11.

4. On 6 February 2019, the Registry submitted its "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge".⁴ In this report, the Registry reported no incidents during the monitoring of Mr Ngaïssona's contact with the outside world.
5. On 6 February 2019, the Chamber issued its Third Decision in which it ordered the Registry to prepare a report on the implementation of the restrictions on contact as ordered in the First Decision "setting out any relevant information relating to Ngaïssona's behaviour on communications that may give rise to suspicion that he interferes with the Prosecutor's investigation (in particular that he poses a threat to potential witnesses and victims) or that he engages in activities that may affect the outcome of the proceedings".⁵

III. Classification

6. 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 and the Registry, as it contains sensitive information concerning identifying information of Mr Ngaïssona's personal contacts and detention-related matters. Should the Chamber decide so, the Registry stands ready to give the Office of the Prosecutor access to a redacted version of the present report.

IV. Applicable law

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

⁴ "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge", 6 February 2019, ICC-01/14-02/18-28-Conf-Exp.

⁵ ICC-01/14-02/18-27-Conf-Exp, para. 12.

V. Submissions

Non-privileged telephone calls

8. On 8 February 2019, Mr Ngaissona submitted completed Telephone Number Forms to the DC staff in order to seek authorisation to add the following individuals to his non-privileged contact list:

- i) [REDACTED]; and
- ii) [REDACTED].

9. In accordance with the First Decision in which the Single Judge restricted Mr Ngaissona's telephone calls to "a limited number of individuals, *such as family members*, whose identities and contact details will have to be duly verified beforehand with the support of the Victims and Witness Unit ("VWU")"⁶ [emphasis added], the Registry has not followed up on Mr Ngaissona's request to have the two abovementioned individuals added to his non-privileged telephone contact list. Should the Chamber decide so, the Registry stands ready to process the verification procedure of the identities of these individuals with the support of the VWU in order to determine whether these individuals can be added to Mr Ngaissona's non-privileged telephone list.

10. Furthermore, on 10 February 2019, Mr Ngaissona submitted a completed Telephone Number Form to the DC staff in order to seek authorisation to add [REDACTED] to his non-privileged telephone contact list. In addition, Mr Ngaissona listed in the said form [REDACTED] and [REDACTED], as additional persons to whom he may speak to on this telephone number.

⁶ ICC-01/14-02/18-11-Conf-Exp, para. 8.

11. The process of prior approval by the Registrar of the proposed names includes a verification process by the DC staff of the available information contained in the duly completed Telephone Number Forms within 14 days of its submission in accordance with regulation 173(4) of the RoR and the said form. The DC's vetting procedure of telephone contacts consists of calling the person whose telephone number is filled in on the form and verifying with that person the information provided. The DC staff has been able to [REDACTED], who confirmed the relationship with Mr Ngaïssona and the additional information provided. Furthermore, [REDACTED] could confirm that [REDACTED].
12. On 14 February 2019, pursuant to the Single Judge's instruction, the Registry sent the abovementioned Telephone Number Form to the VWU for their support in further verifying the identity and contact details of these three individuals.
13. On 16 February 2019, the VWU submitted their report⁷ recommending that formal documentation be requested to prove [REDACTED]. In the absence of any other concerns brought to the attention of the Chief Custody Officer ("CCO") regarding these individuals possibly posing a risk to potential witnesses and victims, and considering regulation 99(1)(i) of the RoC and regulation 173(4), on 20 February 2019, the CCO decided to add the three individuals to Mr Ngaïssona's non-privileged contact list.⁸ In taking this decision, the CCO gave specific attention to the detained person's right to private and family life, including his rights to maintain such relations, in

⁷ Annex I, VWU Report, 16 February 2019.

⁸ Annex II, Approbation des numéros de téléphone de [REDACTED], et programme des appels téléphoniques.

accordance with the relevant international human rights standards on detention conditions.

14. The Registry notes that to date, the DC staff has not been able to reach [REDACTED], and [REDACTED], for whom he submitted a Telephone Number Form on 29 January 2019, due to network-related problems.⁹
15. During the second reporting period, Mr Ngaïssona has made actively monitored telephone calls according to the newly implemented time schedule, which is as of 18 February 2019, every Monday and Thursday, from 14.30-15.00 hours.¹⁰ Mr Ngaïssona spoke to [REDACTED] on 8 February 2019, 13 February 2019, 15 February 2019 and 18 February 2019. On 21 February 2019, Mr Ngaïssona spoke on the phone with [REDACTED].

Non-Privileged Visits

16. During the second reporting period, Mr Ngaïssona has received actively monitored visits from [REDACTED], on 7 February 2019, 14 February 2019 and 21 February 2019. The Registry notes that no incidents occurred during these visits.
17. On 14 February 2019, the DC staff received an application form for permission to visit Mr Ngaïssona submitted by [REDACTED]. For the same reasons as set out in paragraph 9 above, the Registry has not processed this request. Should the Chamber decide so, the Registry stands ready to process the verification procedure of the identities of this individual with the support of the VWU in order to determine whether a permission to visit Mr Ngaïssona can be granted.

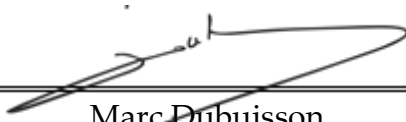
⁹ "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge", 6 February 2019, ICC-01/14-02/18-28-Conf-Exp, para. 15.

¹⁰ Annex II.

18. On 19 February 2019, the DC staff received two application forms for permission to visit Mr Ngaïssona submitted by [REDACTED]. On 21 February 2019, the Registry sent the abovementioned application forms to the VWU for their support in further verifying the identity of [REDACTED]. As of the present filing, the VWU has not yet concluded the verification process concerning this individual.

Incoming and outgoing mail

19. On 14 February 2019, Mr Ngaïssona received correspondence from [REDACTED], which has been handed over to him the day after, pursuant to the procedure set out in regulation 169 of the RoR.



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

Dated this 26 February 2019

At The Hague, The Netherlands