

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: **13 January 2020**

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 *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

**Confidential, *EX PARTE*, only available to the Prosecution, Ngaissona Defence, the
Registrar, and the Detention Section**

**Prosecution's Observations on the "*Eighth Registry report on the Implementation of
the Restrictions on Contact of Mr Ngaissona Ordered by Pre-Trial Chamber II*"
(ICC-01/14-01/18-416-Conf-Exp-Red)**

Source: Office of the Prosecutor

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

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I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") submits its observations on the Eighth Registry Report on the implementation of contact restrictions concerning Patrice-Edouard NGAISSONA ("NGAISSONA"),¹ as directed by Pre-Trial Chamber II ("Chamber").²

2. The current restrictions on NGAISSONA's contacts in detention³ should be maintained for the remainder of the pre-trial proceedings, as ordered by the Chamber.⁴ This will minimise the risk to the integrity of the proceedings and to witnesses whose identities are known to the Accused, and whose security in this case remains precarious.

II. CONFIDENTIALITY

3. In accordance with regulation 23 *bis* (1) of the Regulations of the Court, these Observations are filed as "Confidential, *EX PARTE*, only available to the Prosecution, Ngaissona Defence, the Registrar, and the Detention Section" as they respond to filings and decisions of the same classification.

III. SUBMISSIONS

4. *First*, there has been no change in circumstances warranting the Chamber's lifting or modification of the existing restrictions. Moreover, the "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaissona Ordered by Pre-Trial Chamber II" ("Seventh Registry Report"),⁵ which remains largely redacted from the Prosecution, revealed a number of violations committed

¹ ICC-01/14-01/18-416-Conf-Exp-Red.

² ICC-01/14-01/18-176-Conf-Red.

³ ICC-01/14-01/18-357-Conf-Exp-Red and ICC-01/14-01/18-374-Conf-Exp-Red.

⁴ ICC-01/14-01/18-413-Conf-Exp-Red ; ICC-01/14-01/18-374-Conf-Exp-Red, para. 41.

⁵ ICC-01/14-01/18-390-Conf-Exp-Red.

by NGAISSONA. The Prosecution received access to some of the relevant information contained in the Seventh Registry Report through the Chamber's 23 December 2019 Decision.⁶ The results of the Registry's investigation into NGAISSONA's non-privileged phone calls, discussed in said Decision, reveal that "on multiple occasions, Ngaissona has engaged in conduct intended to circumvent the imposed (contact) restrictions",⁷ by communicating with non-authorised individuals and using coded language.⁸ They further reveal that, on one occasion, "Ngaissona was attempting to circumvent the Detention Centre's verification process".⁹ The Prosecution has serious concerns regarding the alleged violations and conduct of the Accused, which present a genuine risk to Prosecution Witnesses and the integrity of the proceedings. Ensuring the protection of both requires, at the very least, that the conditions and restrictions that the Chamber has ordered to date remain in place, vigilantly observed, and fully implemented.

5. *Second*, the "Decision on the confirmation of charges against Alfred Yekatom and Patrice-Edouard Ngaissona" ("Confirmation Decision") of 11 December 2019¹⁰ confirmed a number of charges against both Accused and committed them to trial. NGAISSONA is charged with serious crimes and could face a lengthy term of imprisonment. He has a clear understanding of the nature and extent of the confirmed charges against him and, importantly, the specific evidence which supports them. This includes the statements of Prosecution Witnesses whose identities, with few exceptions, have been fully disclosed. These circumstances further augment the risk posed to witnesses whether directly or indirectly.

6. *Third*, the risk to the integrity of the proceedings and to witnesses' security in this case continues to be exacerbated by the prevailing security situation in the

⁶ ICC-01/14-01/18-413-Conf-Exp-Red, para. 90.

⁷ ICC-01/14-01/18-413-Conf-Exp-Red, para. 82.

⁸ ICC-01/14-01/18-413-Conf-Exp-Red, para. 82.

⁹ ICC-01/14-01/18-413-Conf-Exp-Red, para. 83.

¹⁰ ICC-01/14-01/18-403-Conf.

Central African Republic ("CAR"). The already fragile security situation in CAR has been further destabilised by Francois BOZIZE's recent return to Bangui, where he continues to enjoy wide political support.¹¹ His direct link to NGAISSONA, including in respect of the pending charges, requires the Chamber to observe with utmost caution as concerns the risks attendant to this developing situation. In addition, there has been no change in the ability of the CAR authorities to implement necessary security measures for the protection of witnesses and victims.

IV. CONCLUSION

7. For the above reasons, existing contact restrictions concerning NGAISSONA should, at a minimum, be maintained and fully implemented for the remainder of the pre-trial proceedings, as ordered by the Chamber.



Fatou Bensouda, Prosecutor

Dated this 13th day of January 2020

At The Hague, The Netherlands

¹¹ See *Jeune Afrique* article « Centrafrique : l'ancien président François Bozizé est de retour à Bangui », 16 December 2019: <https://www.jeuneafrique.com/870355/politique/centrafrique-lancien-president-francois-bozize-est-de-retour-a-bangui/> [last accessed on 13 January 2020]; See also *Le Monde* article « Centrafrique : retour à Bangui de François Bozizé après six ans d'exil », 16 December 2019: https://www.lemonde.fr/afrique/article/2019/12/16/centrafrique-retour-a-bangui-de-francois-bozize-apres-six-ans-d-exil_6023066_3212.html [last accessed on 13 January 2020].