

**Cour
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**International
Criminal
Court**



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Date: 21 July 2025

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung
Judge Beti Hohler , Alternate Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC

***IN THE CASE OF THE PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Confidential

**Ngaïssona Defence Response to the "Prosecution's Observations on the
"Thirteenth Registry Report on the Implementation of the Restrictions on Contacts
of Mr Ngaïssona Ordered by Trial Chamber V" (ICC-01/14-01/18-2781-Conf)**

Source: Defence of Patrice-Edouard Ngaïssona

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Reparations Section**

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I. INTRODUCTION

1. The Defence of Mr Ngaïssona ('the Defence') hereby responds to the "Prosecution's Observations on the 'Thirteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona Ordered by Trial Chamber V'", filed on 16 July 2025 ('Prosecution's Observations').¹
2. The Prosecution not only disregards Trial Chamber V's ('Chamber') guidance² by submitting observations when no modifications are sought, it also makes sweeping and unfounded allegations that Mr Ngaïssona "has a lengthy history of circumventing the conditions of his detention"³ and, as such, "cannot be counted on to abide by the Chamber's directives".⁴ Despite the frivolous nature of these observations, the Defence has no other option but to respond to clarify the record, and protect Mr Ngaïssona's good name and reputation.

II. CONFIDENTIALITY

3. The present response is filed on a confidential basis pursuant to Regulation 23bis(2) of the Regulations of the Court ('RoC') since it responds to a filing of the same classification. A public redacted version shall be filed in due course.

III. PROCEDURAL HISTORY

4. As mentioned in the 'Thirteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona Ordered by Trial Chamber V' ('Thirteenth Registry Report'), the current framework governing the restrictions is as follows: (1) non-privileged phone calls and non-privileged visits limited to the individuals on Mr Ngaïssona's non-privileged contact list, subject to verification of their identity and contact details by the Chief Custody Officer ("CCO"); (2) written

¹ ICC-01/14-01/18-2781-Conf ('Prosecution's Observations').

² ICC-01/14-01/18-2741-Conf, para. 9 "it reminds the participants that, unless they seek a modification of the restrictions regime, they are not expected to provide observations on the Registry reports on the implementation of the restrictions on contacts and communications in detention". See also ICC-01/14-01/18-2475-Conf, para. 6; ICC-01/14-01/18-672-Conf, para. 26; ICC-01/14-01/18-965-Red, para. 11

³ Prosecution's Observations, para. 5.

⁴ Prosecution's Observations, para. 7.

correspondence limited to the individuals on his non-privileged contact list; (3) non-privileged communications in French and/or Sango; and (4) the prohibition of obscure or coded language and discussions related to his case during non-privileged communications.⁵

5. On 10 July 2025, the Registry submitted its Report, stating that it has “no concerns to report”.⁶
6. On 16 July 2025, the Prosecution filed its Observations, requesting the Chamber to “direct the Registry to maintain the current conditions of NGAISSONA’s detention”.⁷

IV. APPLICABLE LAW

7. Pursuant to the Chamber’s ‘Decision Recalling the Reporting Procedure for the Review of Restrictions’, the Defence “shall submit observations on the respective Registry Reports, as well as on the Prosecution’s observations, if any, together with confidential redacted versions of said observations, within 10 days of notification of the Registry Reports”.⁸

V. SUBMISSIONS

8. At the outset, the Defence underscores that the Prosecution has once again disregarded the Chamber’s guidance regarding observations on Registry reports. Notwithstanding the Registry’s confirmation that there were no incidents concerning Mr Ngaïssona’s communications,⁹ and the Prosecution’s own acknowledgement of this fact without seeking any amendments to the current restrictions imposed on Mr Ngaïssona,¹⁰ it nevertheless proceeded to file observations. In doing so, the Prosecution advances broad, unsubstantiated claims regarding Mr Ngaïssona’s conduct while in detention, and, moreover,

⁵ ICC-01/14-01/18-2779-Conf (‘Thirteenth Registry Report’), para. 2.

⁶ Thirteenth Registry Report, paras 1, 5 and 6.

⁷ Prosecution’s Observations, para. 8.

⁸ ICC-01/14-01/18-540, para. 13(iii).

⁹ Thirteenth Registry Report, paras 1, 5 and 6.

¹⁰ Prosecution’s Observations, paras 3, 5 and 8.

misrepresents the Chamber's findings in relation to the 10 December 2024 incident.¹¹

9. *First*, the Defence observes that the Prosecution relies on its own oral submissions from the 8 January 2025 sentencing hearing as purported evidence that Mr Ngaïssona "has a lengthy history of circumventing the conditions of his detention".¹² This approach epitomises a self-referential echo chamber, where unproven allegations are recycled *in lieu* of actual evidence. Repetition, however, does not transform assertion into fact, and the Prosecution's failure to produce any concrete proof underscores the fragility of its position.
10. By contrast, there are numerous Registry reports over the years consistently confirming Mr Ngaïssona's compliance with the restrictions imposed on his communications.¹³ Furthermore, it is of particular significance that the last breach of the restrictions regime by Mr Ngaïssona dates back to 2021, more than four years ago.¹⁴ Since then, the Chamber has consistently found that none of the incidents reported by the Registry amounted to a violation of the restrictions regime by Mr Ngaïssona.¹⁵
11. *Second*, the Prosecution's claim that Mr Ngaïssona engaged in "improper communication (...) in violation of the Chamber's Order"¹⁶ is inaccurate and mischaracterises the Chamber's findings in relation to the 10 December 2024 incident. While the Chamber observed that Mr Ngaïssona had made limited

¹¹ See ICC-01/14-01/18-2752-Conf-Exp, paras 7-8.

¹² Prosecution's Observations, para. 5 and fn. 4 citing ICC-01/14-01/18-T-310 ET WT, p. 42, lns 13-15 "I will not belabour the point, but the record of reported violations of, and attempts to circumvent, the Chamber's order on the conditions of detention, particularly restricting contacts while in detention, are also numerous for both accused". No other information or evidence of the Accused's alleged "reported violations" is cited.

¹³ See ICC-01/14-01/18-115-Conf-Exp; ICC-01/14-01/18-125-Conf-Exp; ICC-01/14-01/18-166-Conf-Exp; ICC-01/14-01/18-225-Conf-Exp; ICC-01/14-01/18-416-Red; ICC-01/14-01/18-444-Conf-Exp; ICC-01/14-01/18-546; ICC-01/14-01/18-645-Conf; ICC-01/14-01/18-1105; ICC-01/14-01/18-1307-Conf; ICC-01/14-01/18-1741-Conf; ICC-01/14-01/18-2444; ICC-01/14-01/18-2724; ICC-01/14-01/18-2779-Conf. In each of the aforementioned filings, the Registry had no incidents to report.

¹⁴ See ICC-01/14-01/18-965-Conf-Exp, paras 15-16, where the Chamber found that "Mr Ngaïssona did not comply with the Current Restrictions and the Registry Regulations", noted the Defence's acknowledgement of this breach and appreciated Mr Ngaïssona's apology and assurances in this regard.

¹⁵ See ICC-01/14-01/18-2177-Conf, paras 12-22; ICC-01/14-01/18-1575-Conf; ICC-01/14-01/18-2759-Conf-Exp, para. 8.

¹⁶ Prosecution's Observations, para. 3.

references to case-related matters, it also noted that these comments were based on a document that was “presented in open court during the Prosecution’s closing statement” and was thus “publicly known”.¹⁷ This led the Chamber to expressly determine that no discernible risk to victims, witnesses or other individuals arose as a result.¹⁸ In these circumstances, the Prosecution’s portrayal of the incident overstates its significance and fails to reflect the Chamber’s clear assessment of the issue.

12. *Lastly*, the Defence reiterates that no Chamber of this Court has ever found that Mr Ngaïssona has interfered with witnesses or attempted to influence the proceedings.¹⁹ As such, the Prosecution’s contention that there remains “a continued need to safeguard potential further proceedings, as well as to protect witnesses who have provided evidence in this case at risk to their own and their families’ well-being”²⁰ from Mr Ngaïssona is unsupported and rests entirely on speculative assertions, rather than any demonstrable risk.

13. From all of the above, it is evident that the Prosecution’s Observations form part of a continuing pattern²¹ aimed at tarnishing Mr Ngaïssona’s reputation and eroding his presumption of innocence. It is telling that these allegations, devoid of any substance or evidence to support them, are raised a week before the judgment is delivered.²² This timing suggests an attempt to cast Mr Ngaïssona in a false and prejudicial light before the Chamber, the participants and the wider public in the Central African Republic and beyond, rather than to address any genuine risk.

VI. RELIEF SOUGHT

¹⁷ ICC-01/14-01/18-2759-Conf-Exp, para. 8.

¹⁸ ICC-01/14-01/18-2759-Conf-Exp, para. 8.

¹⁹ ICC-01/14-01/18-2670-Conf, paras 39-50.

²⁰ Prosecution’s Observations, para. 6.

²¹ *See for example* ICC-01/14-01/18-555-Conf, paras 4-8; ICC-01/14-01/18-651-Conf, paras 4-5; ICC-01/14-01/18-1110-Conf, para. 7; ICC-01/14-01/18-2459-Conf, paras 7-11; ICC-01/14-01/18-2730-Conf, paras 5-6. In each of the aforementioned filings, the Prosecution submitted observations in light of Registry reports which recorded no incidents, yet proceeded to advance broad assertions concerning Mr Ngaïssona’s conduct *vis-à-vis* the imposed restrictions.

²² ICC-01/14-01/18-2771, page 3.

14. The Defence respectfully requests the Chamber to:

DISMISS the arguments put forward by the Prosecution in its Observations to the Thirteenth Registry Report.

Respectfully submitted,



G. G. J. Alexander Knoops
on behalf of
Patrice-Edouard Ngaïssona

Dated this 21 July 2025

At The Hague, the Netherlands