

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

*No.: ICC-01/14-01/18
Date: 21 January 2026*

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding Judge
Judge Luz del Carmen Ibáñez Carranza
Judge Kimberly Prost
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

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

Public Document

**Ngaïssona Defence Observations on the "Prosecution's Observations on the
'Fourteenth Registry Report
on the Implementation of the Restrictions on Contacts
of Mr Ngaïssona'(ICC-01/14-01/18-2861)" (ICC-01/14-01/18-2862)**

Source: Defence of Patrice-Edouard Ngaïssona

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

D30

D29

☒ Legal Representatives of the Victims

V44

V45

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☒ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. The Defence of Mr Ngaïssona ('the Defence') hereby presents its observations on the 'Prosecution's Observations on the "Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona"', filed on 19 January 2026 ('Prosecution's Observations').¹
2. The Prosecution has again filed observations despite seeking no modification of the current regime, notwithstanding the Trial Chamber's prior indications in this case concerning observations on Registry reports confirming no incidents.² The Prosecution further repeats expansive allegations, devoid of evidentiary support, that Mr Ngaïssona "has a history of circumventing contact restrictions imposed during the course of trial"³ and "cannot be counted on" to respect the Chamber's directives.⁴ The Defence submits the present observations solely to correct the record and avoid unwarranted prejudice to Mr Ngaïssona's reputation.

II. PROCEDURAL HISTORY

3. As mentioned in the 'Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona' ('Fourteenth 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; (2) written 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

¹ ICC-01/14-01/18-2862 ('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. 4.

⁴ Prosecution's Observations, para. 7.

⁵ ICC-01/14-01/18-2861 ('Fourteenth Registry Report'), para. 2.

4. On 12 January 2026, the Registry submitted the Fourteenth Registry Report, stating that it has “no concerns to report”.⁶
5. On 19 January 2026, the Prosecution filed its Observations, requesting the Appeals Chamber to “direct the Registry to maintain the current conditions of NGAISSONA’s detention”.⁷

III. APPLICABLE LAW

6. Pursuant to Trial Chamber V’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

IV. SUBMISSIONS

7. The Defence incorporates by reference its prior submissions on this recurring issue, including (i) the Chamber’s guidance that observations are not warranted where Registry reporting confirms no incidents concerning the accused; and (ii) the Prosecution’s pattern of advancing broad assertions unsupported by evidence, including through its mischaracterisation of prior findings relating to the 10 December 2024 incident.⁹ Those submissions apply with equal force here.
8. The Prosecution now adds a further line of argument, i.e. that the Registry’s indication that other detainees have violated contact restrictions through random monitoring “underscores” that safeguards may be circumvented, warranting the maintenance of Mr Ngaïssona’s restrictions.¹⁰ As Trial Chamber V has emphasised, “restrictions on contacts and communications under the Court’s statutory framework must be (re-)assessed in light of concrete, specific and up-to-date

⁶ Fourteenth Registry Report, para. 4.

⁷ Prosecution’s Observations, para. 8.

⁸ ICC-01/14-01/18-540, para. 13(iii).

⁹ ICC-01/14-01/18-2782, paras 8 and 11.

¹⁰ Prosecution’s Observations, para. 5.

information”.¹¹ The Prosecution’s reliance on unrelated conduct by other detainees and on dated allegations does not meet that standard.

9. *First*, it is expressly conceded that those violations are “not attributable to this Defendant”.¹² The Prosecution’s reliance on unrelated conduct by “similarly situated detainees”¹³ amounts to impermissible reasoning by association, as it invites the Appeals Chamber to maintain restrictive measures against Mr Ngaïssona not because of anything he did, but because of what others allegedly did. That is not an individualized assessment of necessity and proportionality¹⁴ and cannot justify maintaining restrictions on a detainee who has been reported compliant in the relevant period.
10. *Second*, the Prosecution’s submissions are internally inconsistent. The Prosecution argues, on the one hand, that monitoring mechanisms “can be circumvented”,¹⁵ implying that compliance cannot be trusted, yet on the other hand claims that the Registry’s lack of detected violations “underscores that the current conditions [...] serve their intended purpose”.¹⁶ The latter proposition is equally flawed as the absence of violations is evidence of compliance, not evidence that restrictions must remain unchanged as a matter of course. If anything, it confirms that there is no incident-based justification for the Prosecution’s intervention.
11. *Third*, the Prosecution again resorts to generalized claims that Mr Ngaïssona has a “history” of circumvention and “cannot be counted on”,¹⁷ without identifying any recent violation. As previously submitted, the Prosecution’s reliance on its own prior oral submissions to support these allegations is inherently self-referential; submissions are not evidence, and repetition does not transform assertion into

¹¹ ICC-01/14-01/18-176-Conf-Red, para 29.

¹² Prosecution’s Observations, para. 5.

¹³ *Idem*.

¹⁴ See for example ICC-01/14-01/18-413-Conf-Red, para. 78 “contact restrictions must be necessary, proportionate to the legitimate aim pursued, and balanced against a suspect’s right to private and family life”.

¹⁵ Prosecution’s Observations, para. 5.

¹⁶ *Ibid*, para. 6.

¹⁷ *Ibid*, para. 7.

proof.¹⁸ The Defence recalls that the last confirmed breach dates back years ago,¹⁹ and that, in relation to the 10 December 2024 incident, the Trial Chamber did not find that Mr Ngaïssona had violated the applicable restrictions. The Trial Chamber instead noted that any limited references concerned material presented in open court and that no discernible risk arose.²⁰

12. *Fourth*, the Prosecution's invocation of a continuing need "to protect witnesses who remain at risk"²¹ is stated at a high level of abstraction and is not anchored in any concrete, individualized risk attributable to Mr Ngaïssona during the reporting period. The Fourteenth Registry Report does not identify misconduct, and no Chamber of the Court has found that Mr Ngaïssona interfered with witnesses or attempted to influence the proceedings. In the absence of incidents, the Prosecution's position remains speculative.

13. For these reasons, and consistent with the Registry's findings for the reporting period, the Defence respectfully requests that the Appeals Chamber dismiss the Prosecution's Observations.

V. RELIEF SOUGHT

14. The Defence respectfully requests the Appeals Chamber to:

DISMISS the arguments put forward by the Prosecution in its Observations on the Fourteenth Registry Report.

¹⁸ ICC-01/14-01/18-2782, para. 9.

¹⁹ See ICC-01/14-01/18-965-Conf-Exp, paras 15-16, where Trial Chamber V 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.

²⁰ ICC-01/14-01/18-2782, para. 11.

²¹ Prosecution's Observations, para. 6.

Respectfully submitted,



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

Dated this 21 January 2026

At The Hague, the Netherlands