

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **2 February 2026**

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***

Public

**Public redacted version of “Prosecution’s Request to Continue the Separation of
NGAISSONA and YEKATOM at the ICC Detention Centre”, 28 January 2019,
ICC-01/14-01/18-104-Conf-Red**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

[REDACTED]

[REDACTED]

[REDACTED]

Counsel for the Defence

[REDACTED]

[REDACTED]

Legal Representatives of Victims

Legal Representatives of 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

[REDACTED]

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Pursuant to the direction of the Single Judge of Pre-Trial Chamber II (“Chamber”),¹ the Prosecution requests the Chamber to extend its provisional order to keep Patrick Edouard NGAISSONA (“NGAISSONA”) and Alfred YEKATOM (“YEKATOM”)² in separate wings at the ICC Detention Centre³ (“Request”). This specific condition of detention (“Separation”) is necessary to mitigate the high possibility of collusion among the Suspects and the attendant risk of witness interference.

2. Given the nature and gravity of the alleged crimes, reasonable grounds exist to believe that the Suspects’ unrestricted contact with one another could result in prejudice to the continuing investigation. Allowing contact between NGAISSONA and YEKATOM would provide them with a virtual license to collude — [REDACTED] — and, early enough in the proceedings to risk irreparable damage to the case. It would also provide the Suspects with ample opportunity [REDACTED] about their respective cases, [REDACTED]. This could [REDACTED].

3. Having reviewed the “Registry Report on the Feasibility, Costs and Effects of Separating Mr Ngaïssona and Mr Yekatom within the ICC Detention Centre”,⁴ the Prosecution considers that NGAISSONA and YEKATOM should be housed in separate wings of the Detention Centre for an additional period of 21 days, subject to the Chamber’s review of the relevant factors. The interests of justice and the safety of the proceedings before the Court depend on it.

4. Alternatively, the Chamber should require the Registrar to implement adequate measures to minimise contact between the Suspects, and to ensure that

¹ ICC-01/14-02/18-11-Conf-Exp, p. 7; ICC-01/14-01/18-63-Conf-Exp, p. 7.

² Collectively, referred to as “Suspects”.

³ ICC-01/14-02/18-11-Conf-Exp, para. 6; ICC-01/14-01/18-63-Conf-Exp, para. 6.

⁴ ICC-01/14-02/18-15-Conf-Exp (“Registry Feasibility Report”).

their interaction is actively monitored.

II. CONFIDENTIALITY

5. The Request is filed “Confidential, *EX PARTE*, only available to the Prosecution and the Registry”, because revealing the reasons for continuing the Separation could provide the Suspects with information which may defeat its purpose. A confidential redacted version will be filed as soon as practicable.

III. SUBMISSIONS

A. NGAISSONA’s and YEKATOM’s separation is justified and should be maintained

6. The Suspects’ Separation should be extended. Lifting this contact restriction early unnecessarily risks undermining the integrity of the proceedings and damaging the Prosecution’s ongoing investigations in this case.

7. These risks comprise not only the high potential for collusion among the Suspects, but also between [REDACTED], [REDACTED].

8. Unrestricted contact between NGAISSONA and YEKATOM in detention would invite their [REDACTED] respective cases, necessarily including the [REDACTED]. The exchange of this information [REDACTED] enabling them better [REDACTED] from the Detention Centre through their contacts, extensive networks, and supporters.

9. Although the Suspects’ contacts beyond the Detention Centre are restricted, [REDACTED]. Allowing the Suspects the opportunity to [REDACTED] in detention

at this early stage merely augments a well-known and concrete risk.⁵

10. As the Registry Report notes, maintaining Separation incurs a substantial financial burden to the Court.⁶ However, terminating the measure at this point would augment the Suspect's capacity to interfere with, [REDACTED], which may come at a far greater cost to the Court. More immediately, it would allow the Suspects' a critical opportunity to [REDACTED] to the detriment of the integrity of the investigation, the proceedings, and to the Chamber's duty to search for the truth. These countervailing interests comprise a substantial cost to the Court, both tangible and intangible, which the Chamber should not underestimate.

a. There is a risk of collusion and witness interference

11. The Court's regulatory framework authorises a Chamber to prohibit, regulate, or set conditions for contact between a detained person or any other person when reasonable grounds exist to believe that such contact "could be harmful"⁷ or "could prejudice or otherwise affect" the outcome of the proceedings.⁸ All of these are inherent in the risk of potential collusive activity.

12. The nature of this case and the charges are such that NGAISSONA's and YEKATOM's interests may be substantively aligned. NGAISSONA's position of leadership in the Anti-Balaka and his related responsibility for YEKATOM's acts and those of his group of Anti-Balaka elements set out in the Warrant of Arrest against NGAISSONA,⁹ provides both Suspects with a powerful incentive to collude to

⁵ See generally Open Society Justice Initiative, [Witness Interference in Cases before the International Criminal Court](#) [Last accessed: 28/01/2019], November 2016 (noting, *inter alia* that "the accused themselves (or their associates or relatives), including through coded communications from the ICC detention center" [last accessed 9 January 2019]; see, *Ntaganda*, ICC-01/04-02/06-1616 (which involved the exchange of information among detainees in the Detention Centre, specifically); see also, *Bemba, et al*, ICC-01/05-01/13-2275-Red (noting an extensive criminal scheme of witness interference carried out from *inter alia*, the Detention Centre).

⁶ ICC-01/14-02/18-15-Conf-Exp, para. 10.

⁷ See regulation 101(2)(c) of the Regulations of the Court ("RoC").

⁸ See regulation 101(2)(b) of the RoC.

⁹ See ICC-01/14-02/18-2-Red, pp. 11-14, 17-19.

undermine their respective cases.

13. Given what is at stake here and the Suspects' respective histories, it would be naive to assume that contact between them concerning their cases is likely to be consistent with the administration of justice before this Court. Rather, a *realistic* assessment of risk by the Chamber taking into account all of the attendant circumstances, as spelled out in the Prosecution's Application for Warrants of Arrest,¹⁰ dictates the contrary.

14. Weighing not only the potential for the Suspects to engage in the offending conduct, but [REDACTED], supports no other result. Importantly, an erroneous assessment based on a presumption of prospective good behaviour — despite the Suspects' histories, their associations with a violent and active rebel group, and their extensive networks, supporters and influence, jeopardises not only the administration of justice and integrity of the proceedings, but also their potential outcome. The same holds true should the Chamber mis-appreciate the gravity of the risks involved.

b. The Suspects' separation fairly and proportionately balances their interests and the Chamber's overarching duty to ensure the integrity of the proceedings

15. There are reasonable grounds to conclude that allowing contact between NGAISSONA and YEKATOM while in detention "*could* prejudice or otherwise affect" the outcome of the proceedings.¹¹ That has not changed in the five days that NGAISSONA has been in the Detention Centre's custody. Nor, is it likely to change by 29 January 2019, or immediately thereafter.

16. Separation is necessary and indispensable to counteract the risks attendant to

¹⁰ ICC-01/14-01/18-2-US-Exp, para. 357.

¹¹ See regulation 101(2)(b) of the RoC. (emphasis added).

allowing free communication between NGAISSONA and YEKATOM. As implemented, Separation does not eliminate their contact with other detainees within the Detention Centre, or either's access to activities in which they might otherwise participate. Rather, the corresponding *reduction* to their activities is reasonable and proportionate to the exigencies. Nor does it exceed what is necessary to meet that objective. Further, delimiting of the period of extension and review of the prevailing circumstances by the Chamber to 21 days is similarly reasonable in scope and duration, and ensures that the Suspect's competing interests are appropriately safeguarded.

17. Moreover, doing so advances the interests of justice without unfairly prejudicing the Suspects' ability to adequately prepare for trial. Accordingly, the Prosecution considers that the Chamber should direct the Registry to continue to ensure that: (1) NGAISSONA does not obviate the surveillance in place at the ICC Detention Centre; (2) heightened vigilance is observed by custodial staff to ensure that NGAISSONA and YEKATOM [REDACTED] through whatever means at their disposal; (3) segregation of the computers or networks NGAISSONA may have access to is maintained *vis-à-vis* YEKATOM; and (4) the activities offered to NGAISSONA in detention, including access to a common spaces, be regulated so as to preserve his separation from YEKATOM.

B. The Registry Feasibility Report is advisory but not dispositive

18. The Registry Feasibility Report is advisory. It is not dispositive. The Registry's conclusion appears to proceed from the basis that, implementing a 'no-contact' order among detainees, requires their *de facto* segregation.¹² Although evidently and uniquely a practical limitation of the ICC Detention Centre, the segregation of a detainee from *all* others is in not a *sine qua non* of a straightforward separation order.

¹² ICC-01/14-02/18-15-Conf-Exp, paras. 8-14.

19. Even accepting the Registry's assessment that implementing Separation here requires the absolute segregation of NGAISSONA or YEKATOM, the Registry Feasibility Report [REDACTED].

20. The [REDACTED].

21. While the immediate cost of Separation is undoubtedly important, it is by far less costly than the long-term consequences to be borne by the Court on realising the risks to witnesses, investigations, or the outcome of the proceedings which the contact restriction is calculated to protect against.¹³

C. All interactions between the Suspects should be actively monitored

22. In the alternative, should the Chamber determine that maintaining absolute Separation is not possible in the circumstances, it should direct the Registry to implement adequate surveillance measures in the Detention Centre to ensure that contacts between YEKATOM and NGAISSONA are minimised, and that their interaction is otherwise actively monitored. Similar measures have been ordered by Pre-Trial Chambers in other multi-accused cases and implemented effectively.¹⁴

¹³ See regulation 101 of the RoC; *see also* Registry Feasibility Report, para. 13.

¹⁴ *See e.g. Bemba, et al*, ICC-01/05-01/13-20.

IV. RELIEF SOUGHT

23. For the above reasons, the Prosecution requests that the Suspects' Separation be extended an additional 21 days (*i.e.*, through 20 February 2019), subject to the Chamber's review of the relevant circumstances at such time. Alternatively, the Prosecution requests that the Chamber order the Registry to implement measures to minimise the Suspects' contact and otherwise actively monitor their interactions.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 2nd day of February 2026
At The Hague, The Netherlands