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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 Observations Pursuant to the ‘Third Decision Pursuant to Regulation 101 of the Regulations of the Court’, ICC-01/14-02/18-27-Conf-Exp-Red)”, 27 February 2019, ICC-01/14-01/18-131-Conf-Exp, 1 March 2019

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

The Office of the Prosecutor

[REDACTED]

[REDACTED]

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Counsel for the Defence

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

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[REDACTED]

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. Pursuant to Pre-Trial Chamber II's ("Chamber") order,¹ the Office of the Prosecutor ("Prosecution") provides its observations on the extension of contact restrictions concerning Patrice Edouard NGAISSONA ("NGAISSONA").

2. The Chamber should extend the current contact restrictions² for an additional 30 days beyond 1 March 2019, subject to review of the relevant circumstances at such time. The contact restrictions — in effect only since 23 January 2019³ — are justified to protect prospective victims, witnesses, and the ongoing investigation; and they should remain in place. Alternatively, should the Chamber consider their modification necessary, this should only be implemented gradually.

II. CONFIDENTIALITY

3. This request is filed "confidential, *EX PARTE*, only available to the Prosecution and the NGAISSONA Defence" as it concerns decisions of the same classification, as well as information which, if divulged, may defeat the purpose of the request. The Prosecution will file a confidential redacted version as soon as practicable.

III. SUBMISSIONS

A. No changed circumstances warrant modification of the current contact restrictions

4. None of the justifications for the current contact restrictions previously found by the Chamber have diminished in any way.⁴ Instead, the prevailing circumstances

¹ ICC-01/14-02/18-27-Conf-Exp-Red, p. 7.

² ICC-01/14-02/18-11-Conf-Exp, p. 7 (as modified by ICC-01/14-02/18-19-Conf-Exp-Red); *see also* ICC-01/14-02/18-27-Conf-Exp-Red.

³ ICC-01/14-02/18-27-Conf-Exp-Red, para. 4.

⁴ ICC-01/14-02/18-27-Conf-Exp-Red, para. 11.

warrant their continuation without modification.

5. In ordering the contact restrictions, the Chamber assessed that they were necessary in view of the concrete risks posed. As the Prosecution has previously noted,⁵ the assessment before this Chamber remains whether the prevailing circumstances are such that the Suspect's conduct, absent the current contact restrictions, reasonably "could be harmful"⁶ or "could prejudice or otherwise affect" the outcome of the proceedings.⁷ As explained below, this remains the case.

6. Modifying or lifting the current contact restrictions, particularly this early in the proceedings, presents a substantial and unjustifiable risk. This risk is not merely confined to the prospective confirmation hearing regarding the Suspects, but includes any subsequent process or potential trial.

a. NGAISSONA continues to have the Anti-Balaka's broad support and a strong motive to interfere with the Prosecution's investigation

7. NGAISSONA's support among the Anti-Balaka in the Central African Republic ("CAR") is broad. As the Chamber is aware, from 24 January to 5 February 2019, NGAISSONA's 'wing' of the Anti-Balaka took part in peace negotiations with the CAR government in Khartoum under the auspices of the African Initiative for Peace and Reconciliation.⁸ NGAISSONA's Anti-Balaka associates – still active in CAR – are clearly influential. And, importantly, he remains their recognised leader.⁹ Thus, the Single Judge's previous finding that NGAISSONA "[REDACTED]",¹⁰ remains as valid

⁵ ICC-01/14-02/18-25-Conf-Red, para. 10.

⁶ See Regulation 101(2)(c) of the Regulations of the Court ("RoC") (emphasis added).

⁷ See Regulation 101(2)(b) of the RoC (emphasis added).

⁸ United Nations Secretary General, [Report on the Situation in the Central African Republic](#), 15 February 2019, para. 9 [last accessed 27 February 2019].

⁹ See Bangui.com, [Centrafrique : Ras-le-bol des commandants de zones des ex-antibalaka](#), 18 February 2019 [last accessed 27 February 2019].

¹⁰ ICC-01/14-02/18-11-Conf-Exp, para. 7.

today as ever.

8. As a Suspect, NGAISSONA is necessarily interested in the outcome of the pending proceedings. He has a strong reason and motive to interfere with them given that the case threatens his freedom and future, whether political or economic. Further, given his longstanding and current position of influence in CAR, he has not only the support, but the means, to “[REDACTED].”¹¹ Nothing has transpired in the intervening period since the Chamber made this finding to attenuate this concrete risk.¹²

9. The Prosecution incorporates its previous submissions concerning NGAISSONA’s influence among the Anti-Balaka.¹³

b. The security situation in CAR is [REDACTED]

10. Any reasonable assessment of these risks must take into account the prevailing climate of [REDACTED] in CAR and the associated security issues. The UN Secretary General’s recent report notes that:

[v]iolent clashes between armed groups and exactions committed by criminal militias continued to fuel intercommunal tensions and remain the primary source of insecurity and threats against civilians, especially women and children and humanitarians, mostly with impunity. Armed groups and their factions continued to hold sway in vast parts of the territory, establishing parallel administrations, notwithstanding their stated commitment to the peace

¹¹ ICC-01/14-02/18-11-Conf-Exp, para. 7.

¹² ICC-01/14-02/18-27-Conf-Exp-Red, para. 11 (noting the Chamber’s responsibility to base its decision on “concrete, specific and up-to-date information”)

¹³ See ICC-01/14-02/18-25-Conf-Exp, para. 7 *et seq.*

process.¹⁴

11. As a member of an active wing of the Anti-Balaka, NGAISSONA's access to sensitive information regarding the case against him and Alfred YEKATOM ("YEKATOM") as a result of required disclosure is a potential danger to the security of witnesses and the Prosecution's ongoing investigations, absent the current restrictions.

12. The Chamber must [REDACTED] involved in this process. Conversely, the Chamber should not [REDACTED], or its capacity to effectively preserve the integrity and availability of evidence beyond the Court's seat. Here, this is entirely within the control of, and dependent on, [REDACTED], its disposition toward cooperation with the Court, its resolve, and its capacity.¹⁵

13. Allowing NGAISSONA unrestricted contact with others from detention, particularly members of the Anti-Balaka active in CAR's affairs, whether directly or indirectly, endangers Prosecution witnesses, victims, and the ongoing investigation. Indeed, it has been widely reported that, following NGAISSONA's arrest in December 2018, members of the Anti-Balaka in Bossangoa threatened reprisal attacks against MINUSCA, NGOs and *civilians*.¹⁶

14. As noted, the current political process in CAR foresees the participation of armed groups in the government's affairs, including members of the Anti-Balaka who recently participated in negotiations with the CAR government in Khartoum, and are signatories to the emergent agreement. In this respect, the CAR Presidency has

¹⁴ United Nations Secretary General, [Report on the Situation in the Central African Republic](#), 15 February 2019, paras. 16, 21, and 50 (noting expressly the participation of the Anti-Balaka in targeted attacks against civilians in the reporting period (13 December 2018 through 15 February 2019, as extended by UN Security Council Resolution 2448 (2018)) [last accessed 27 February 2019].

¹⁵ ICC-01/14-02/18-11-Conf-Exp, para. 7 ([REDACTED]).

¹⁶ United Nations Secretary General, [Report on the Situation in the Central African Republic](#), 15 February 2019, para. 9 [last accessed 27 February 2019].

expressly “agreed to accommodate additional representatives of former armed groups in the national administration, including in the Government.”¹⁷

15. Although members of NGAISSONA’s Anti-Balaka wing have expressed dissatisfaction with the group’s representation in respect of the Khartoum negotiations,¹⁸ [REDACTED]. There, they would have access to State facilities, mechanisms, and means through which to [REDACTED] against NGAISSONA’s interests (and indeed those of his group itself), or more easily [REDACTED] and other evidence material to the Prosecution’s case through the State apparatuses.¹⁹

16. Maintaining the current contact restrictions, would impede NGAISSONA’s ability to undermine the Court’s processes through his established network of influential Anti-Balaka associates and supporters, including those currently or prospectively within the CAR government.

c. Lifting the contact restrictions risks undermining those imposed on YEKATOM

17. Given that NGAISSONA and YEKATOM are housed together at the ICC Detention Centre and free to communicate,²⁰ lifting NGAISSONA’s contact restrictions risks undermining those similarly imposed on YEKATOM.

18. As previously noted, the Suspects — now Co-Suspects — share a common interest. The Chamber’s recent decision on the joinder of their cases underscores this.²¹ In particular, the Chamber properly found that “the specific crimes alleged to have been committed by Yekatom and Ngaïssona correspond to a large extent in that all of the crimes alleged against Yekatom are also alleged against Ngaïssona including those

¹⁷ United Nations Secretary General, [Report on the Situation in the Central African Republic](#), 15 February 2019, para. 9 [last accessed 27 February 2019].

¹⁸ See Bangui.com, [Centrafrique : Ras-le-bol des commandants de zones des ex-antibalaka](#), 18 February 2019 [last accessed 27 February 2019].

¹⁹ For example, through obtaining records regarding Prosecution Requests for Assistance (“RFAs”).

²⁰ ICC-01/14-01/18-73-Conf-Exp; ICC-01/14-01/18-73-Conf-Exp, para. 21.

²¹ ICC-01/14-02/18-34, para. 11.

committed in Bangui and the Lobaye Prefecture.”²² These charges are largely supported by the same evidence. Accordingly, the Suspects’ interest in the availability and viability of that evidence — are substantially aligned.

19. Given the seriousness of the charges both Suspects face, whether or not derivative, the risks of lifting the current contact restrictions are commensurately high. Moreover, they are real — as the Court’s problematic management of similar risks posed in other cases has demonstrated time and again.²³

d. [REDACTED]

20. [REDACTED],²⁴ [REDACTED]. [REDACTED]. [REDACTED].

B. Alternatively, the Chamber should only order a limited and gradual reduction of the contact restrictions

21. The extent to which the Registry has reviewed NGAISSONA’s actively or passively monitored communications remains unclear. Nevertheless, should the Chamber be minded to modify the current contact restrictions, this should not be done absent a thorough assessment and review of his communications. Likewise, any modification of the current restrictions should be approached cautiously, such that the Chamber can effectively monitor and promptly stem any prospective breach by NGAISSONA.

IV. RELIEF SOUGHT

22. For the above reasons, the Prosecution requests that the Chamber extend the

²² ICC-01/14-02/18-34, para. 11.

²³ See Open Society Justice Initiative, [Witness Interference in Cases before the International Criminal Court](#) (November 2016), p. 2 (“ICC judges have recognized that witness interference may indeed have been committed across nearly all ICC cases that have moved to the trial phase.”) [last accessed 27 February 2019].

²⁴ ICC-01/14-01/18-125-Conf-Red.

current contact restrictions imposed on NGAISSONA for an additional 30 days beyond 1 March 2019, subject to the Chamber's review of the relevant circumstances at such time. Alternatively, should the Chamber determine that their modification is necessary, this should only be implemented gradually.



Mame Mandiaye Niang, Deputy Prosecutor

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