



Original: English

No. ICC-01/14-01/18 A2

Date: 5 February 2026

THE APPEALS CHAMBER

Before: Judge Solomy Balungi Bossa, Presiding
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-ÉDOUARD NGAÏSSONA**

Public

**Decision on fourteenth Registry report on the implementation of the restrictions
on contacts of Mr Ngaïssona**

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

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

D29

D30

☒ **Legal Representatives of the Victims**
V44

☐ **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
Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☒ **Victims and Witnesses Unit**

☒ **Detention Section**

☐ **Victims Participation and Reparations
Section**

☐ **Other**

The Appeals Chamber of the International Criminal Court,

In the appeals of the Deputy Prosecutor, Mr Alfred Yekatom and Mr Patrice-Édouard Ngaïssona against the decision of Trial Chamber V entitled “Judgment” of 24 July 2025 (ICC-01/14-01/18-2784-Red),

Having before it the “Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona” of 12 January 2026 (ICC-01/14-01/18-2861 (A2)),

Renders, pursuant to regulations 99(1)(h) and (i), 100(1) and 101(2) of the Regulations of the Court, as well as regulations 174, 179(1) and 180(1) of the Regulations of the Registry, the following

DECISION

1. The remaining restrictions on Mr Ngaïssona’s contact, as described at paragraph 7 of this decision, are maintained.
2. Mr Ngaïssona is directed to refrain during non-privileged communications from discussing or revealing in clear or coded language: (1) any identifying information about victims and witnesses and their family members, such as names, pseudonyms, references to their work, or family links; and (2) whereabouts of victims and witnesses and their family members.

REASONS

I. PROCEDURAL HISTORY

1. On 24 July 2025, Trial Chamber V (hereinafter: “Trial Chamber”) rendered the “Judgment” (hereinafter: “Impugned Decision”).¹

¹ [Judgment](#), ICC-01/14-01/18-2784-Conf (public redacted version filed on the same day, ICC-01/14-01/18-2784-Red).

2. Through a series of decisions, of which the last one was rendered on 24 July 2025, the Trial Chamber imposed and maintained a number of conditions for Mr Ngaïssona’s contacts.²

3. On 16 September 2025, the Appeals Chamber granted a request of the Defence for Mr Ngaïssona (hereinafter: “Ngaïssona Defence”)³ and lifted one of the aforementioned restrictions, namely the prohibition on Mr Ngaïssona engaging in case-related discussions during his non-privileged communications, while also directing him to refrain from discussing or revealing, whether in clear or coded language, any identifying information about victims or witnesses and their family members, as well as their whereabouts. In addition, the Registry was directed to continue submitting reports every six months on the implementation of restrictions (hereinafter: “Decision of 16 September 2025”).⁴

4. On 12 January 2026, the Registry filed its bi-annual report on the implementation of contact restrictions for Mr Ngaïssona (hereinafter: “Registry’s Report”).⁵

5. On 19 January 2026, the Deputy Prosecutor (hereinafter: “Prosecutor”) filed his observations on the Registry’s Report (hereinafter: “Prosecutor’s Observations on the Report”).⁶

6. On 21 January 2026, the Ngaïssona Defence filed its observations on the Registry’s Report (hereinafter: “Ngaïssona Defence’s Observations on the Report”).⁷

² [Twelfth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention](#), ICC-01/14-01/18-2785, para. 5, p. 4.

³ [Request for Amendment of Mr Ngaïssona’s Contact Restrictions](#), dated 4 August 2025 and registered on 5 August 2025, ICC-01/14-01/18-2795.

⁴ [Decision on request for variation of restrictions to Mr Ngaïssona’s contacts and communications in detention](#), ICC-01/14-01/18-2812-Conf (A2) (public redacted version filed on 9 October 2025, ICC-01/14-01/18-2812-Red (A2)), paras 24, 27.

⁵ [Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona](#), ICC-01/14-01/18-2861.

⁶ [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.

⁷ [Ngaïssona Defence Observations on the “Prosecution’s Observations on the ‘Fourteenth Registry Report on the Implementation of the Restrictions on Contacts of Mr Ngaïssona’ \(ICC-01/14-01/18-2861\)” \(ICC-01/14-01/18-2862\)](#), ICC-01/14-01/18-2864.

II. MERITS

7. The Registry submits that the following restrictions are currently in place for Mr Ngaïssona:

(1) non-privileged phone calls and non-privileged visits limited to the individuals of his non-privileged contact list, whose identity and contact details have been duly verified beforehand by the Chief Custody Officer [...], who may request the support of the Victims and Witnesses Section; (2) written correspondence limited to the individuals on his non-privileged contact list; (3) non-privileged communications limited to the languages of French and Sango; (4) the prohibition of obscure or coded language; and (5) to refrain “from discussing or in clear or coded language: [...] and identifying information about victims and witnesses and their family members, such as names, pseudonyms, references to their work, or family links; and [...] whereabouts of victims and witnesses and their family members”.⁸

8. The Registry states that it “has no concerns to report”.⁹ It notes that Mr Ngaïssona’s non-privileged telephone calls are randomly monitored and that, based on this monitoring, it has no concerns to report.¹⁰

9. The Prosecutor argues that Mr Ngaïssona’s history of circumventing contact restrictions imposed during trial is well established, and further contends that the mere fact that the Registry has not detected any violation during the present reporting period “does not warrant any prospective change in the prevailing conditions”.¹¹ Moreover, referring to violations of contact restrictions by “similarly situated detainees” and noting that the absence of such violations by Mr Ngaïssona shows that the current restrictions “serve their intended purpose”, the Prosecutor submits that maintaining the close regulation of Mr Ngaïssona’s conduct in detention remains necessary through the appeals proceedings, as he cannot be “counted on” to comply were such measures to be lifted.¹²

10. The Ngaïssona Defence submits that the Prosecutor’s reliance upon “unrelated conduct” involving “similarly situated detainees” amounts to an “impermissible reasoning by association”.¹³ Moreover, in its view, such reasoning does not meet the

⁸ [Registry’s Report](#), para. 2. See also [Decision of 16 September 2025](#), paras 16, 26.

⁹ [Registry’s Report](#), para. 4.

¹⁰ [Registry’s Report](#), para. 5.

¹¹ [Prosecutor’s Observations on the Report](#), paras 4, 7.

¹² [Prosecutor’s Observations on the Report](#), paras 5-7.

¹³ [Ngaïssona Defence’s Observations on the Report](#), para. 9.

requirement of an “individualized assessment of necessity and proportionality”, particularly where the detainee concerned has been compliant during the relevant reporting period.¹⁴ The Ngaïssona Defence adds that the Prosecutor’s portrayal of an alleged history of circumvention by Mr Ngaïssona without identifying any recent violation and based on the Prosecutor’s own prior submissions is “inherently self-referential”.¹⁵ It also submits that in light of the Registry’s Report confirming the absence of any misconduct during the relevant period, the Prosecutor’s position is speculative.¹⁶

11. The current regulation of Mr Ngaïssona’s contact is based on regulation 101(2) of the Regulations of the Court (hereinafter: “Regulations”), which reads in its relevant part:

The Prosecutor may request the Chamber seized of the case to prohibit, regulate or set conditions for contact between a detained person and any other person, with the exception of counsel, if the Prosecutor has reasonable grounds to believe that such contact: [...] [, for instance,]

(b) Could prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation; [...] or

(f) Is a threat to the protection of the rights and freedom of any person.

12. The Appeals Chamber further recalls that regulation 99(1)(h) and (i) of the Regulations provides that “[e]very detained person shall be entitled [...] [t]o receive correspondence, [...] and] [t]o communicate by letter or telephone with his or her family and other persons”. Regulation 100(1) of the Regulations stipulates that “[a] detained person shall be entitled to receive visits”. Pursuant to regulation 180(1) of the Regulations of the Registry, “[p]ermission for visits other than those by counsel [...] shall be granted, unless an order of the Chamber has been issued in accordance with regulation 101 of the Regulations of the Court”. Furthermore, regulation 179(1) of the Regulations of the Registry requires the Registrar to “give specific attention to visits by family of the detained persons with a view to maintaining such links”.¹⁷

¹⁴ [Ngaïssona Defence’s Observations on the Report](#), para. 9.

¹⁵ [Ngaïssona Defence’s Observations on the Report](#), paras 2, 11.

¹⁶ [Ngaïssona Defence’s Observations on the Report](#), para. 12.

¹⁷ See [Decision of 16 September 2025](#), para. 18.

13. Moreover, the Appeals Chamber recalls that “[a]ny interference with the rights of the detained person must be justified, the competing interests having been carefully balanced, and must be proportionately tailored to mitigate the risks or harms in regulation 101(2) of the Regulations”.¹⁸ It also recalls that “while contact restrictions are needed to preserve the integrity of the proceedings, these must be weighed against the accused’s right to privacy and family life”.¹⁹

14. In the present case, the Appeals Chamber takes note of the Registry’s submission that it “has no concerns to report”, and that Mr Ngaïssona’s non-privileged telephone calls are randomly monitored.²⁰ It also notes the Prosecutor’s related observation that the current restrictions “continue to serve their intended purpose in curtailing misconduct” and should be maintained in view of the continuous need to safeguard the ongoing proceedings and to protect witnesses who remain at risk for having testified.²¹ The Appeals Chamber notes the Ngaïssona Defence’s submission that “the absence of violations is evidence of compliance”.²²

15. In this regard, the Appeals Chamber is of the view that the absence of concerns reported by the Registry during the present monitoring period may not, in itself, be determinative of whether the underlying risks identified in earlier decisions have abated. The Appeals Chamber recalls that the purpose of contact restrictions under regulation 101(2) of the Regulations is preventive in nature. They are imposed and maintained “to preserve the integrity of the proceedings”,²³ where “the Prosecutor has reasonable grounds to believe that such contact *could* lead to the occurrence of any of the six adverse consequences enumerated in [regulation 101(2) of the Regulations]”.²⁴ Accordingly, the fact that no violations were reported during this period may equally

¹⁸ Appeals Chamber, *The Prosecutor v. Mahamat Said Abdel Kani*, [Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II entitled ‘Decision on the ‘Prosecution’s Request for Extension of Contact Restrictions’](#)”, 29 June 2021, ICC-01/14-01/21-111-Conf-Red (OA) (public redacted version filed on 17 May 2022, ICC-01/14-01/21-111-Red2 (OA)) (hereinafter: “*Said OA Judgment*”), para. 49. See also [Decision of 16 September 2025](#), para. 20.

¹⁹ Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, [Judgment on Mr Bosco Ntaganda’s appeal against the decision reviewing restrictions on contacts of 7 September 2016](#), 8 March 2017, ICC-01/04-02/06-1817-Conf (OA4) (public redacted version filed on the same day, ICC-01/04-02/06-1817-Red (OA4)) (hereinafter: “*Ntaganda OA4 Judgment*”), para. 101. See also [Decision of 16 September 2025](#), para. 20.

²⁰ [Registry’s Report](#), paras 4-5.

²¹ [Prosecutor’s Observations on the Report](#), paras 6-7.

²² [Ngaïssona Defence’s Observations on the Report](#), para. 10.

²³ [Ntaganda OA4 Judgment](#), para. 101.

²⁴ [Said OA Judgment](#), para. 48 (emphasis added).

reflect the effectiveness of the existing safeguards, rather than the disappearance of the risks that justified their imposition. Although the Ngaïssona Defence emphasises the absence of misconduct in the Registry Report,²⁵ the Appeals Chamber considers that, while this indeed shows that Mr Ngaïssona complies and refrains from prohibited conduct, compliance during a monitored period, without more, does not establish that the underlying risks have dissipated.

16. The Appeals Chamber also notes that the Ngaïssona Defence opposes the Prosecutor’s contention regarding the “continued need to safeguard the ongoing proceedings and to protect witnesses who remain at risk for having testified”,²⁶ submitting that this position is framed at a high level of abstraction and is not anchored in any concrete, individualised risk attributable to Mr Ngaïssona.²⁷ In this regard, the Appeals Chamber recalls its earlier decision that the risks to the integrity of the proceedings and to the safety of victims and witnesses had become “less prominent” after the delivery of the Impugned Decision, while nonetheless continuing to exist.²⁸ In this context, the Appeals Chamber is satisfied that the remaining restrictions currently in place, as referred to above in light of the Registry’s Report,²⁹ remain proportionately tailored to mitigate those risks and are not overly restrictive, particularly in light of their preventive purpose under regulation 101(2) of the Regulations.

17. In light of the foregoing, the Appeals Chamber considers that the risks to the integrity of the proceedings continue to exist and require appropriate safeguards. Mindful of the absence of breaches in the present reporting period, the Appeals Chamber considers that the current restrictions do not unduly interfere with the exercise of Mr Ngaïssona’s right to privacy and family life. The Appeals Chamber therefore finds that these restrictions should be maintained. It further finds that the following direction to Mr Ngaïssona shall remain in place, *namely* “to refrain from discussing or revealing in clear or coded language: (1) any identifying information about victims and witnesses and their family members, such as names, pseudonyms, references to their

²⁵ [Ngaïssona Defence’s Observations on the Report](#), paras 7, 10, 12.

²⁶ [Prosecutor’s Observations on the Report](#), para. 6

²⁷ [Ngaïssona Defence’s Observations on the Report](#), para. 12.

²⁸ See [Decision of 16 September 2025](#), paras 22, 24.

²⁹ See [Registry’s Report](#), para. 2. See also, [Decision of 16 September 2025](#), para. 26.

work, or family links; and (2) whereabouts of victims and witnesses and their family members”.³⁰

Done in both English and French, the English version being authoritative.



Judge Solomy Balungi Bossa
Presiding

Dated this 5th day of February 2026

At The Hague, The Netherlands

³⁰ See [Decision of 16 September 2025](#), para. 26.