



Original: English

No.: ICC-01/14-01/18
Date: 11 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 “Decision Pursuant to Regulation 101 of the Regulations of the Court” (ICC-01/14-01/18-176-Conf-Exp), 24 June 2019, ICC-01/14-01/18-228-Conf-Exp,

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]

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Counsel for Alfred Yekatom

Counsel for Patrice-Edouard Ngaïssona

[REDACTED]

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

States Representatives

Amicus Curiae

REGISTRY

Registrar

[REDACTED]

Counsel Support Section

Victims and Witnesses Unit

[REDACTED]

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) hereby submits its observations on the Fourth Registry Report on the Implementation of contact restrictions concerning Patrice-Edouard NGAISSONA (“NGAISSONA”),¹ as directed by Pre-Trial Chamber II.²

2. *First*, the Prosecution reiterates its prior request that the Chamber impose the most stringent conditions on NGAISSONA’s contacts in detention, as asserted in previous submissions. Witness security in these proceedings remains precarious, and the Prosecution is in the process of investigating certain recent incidents, which appear to be linked to Suspects in this case, if not their associates [Redacted].

3. *Second*, the Prosecution is seriously concerned by the decision [REDACTED] authorising the addition of individuals to NGAISSONA’s non-privileged telephone list, [REDACTED]. The Prosecution thus specifically requests the Chamber to:

(1) Vacate the [REDACTED] decision authorising the addition of these individuals to NGAISSONA’s list of permitted non-privileged contacts; or

(2) Immediately suspend the operation of the [REDACTED] decision, [REDACTED]; or

(3) In the alternative, order the Detention Centre to actively monitor the additional contacts (fully, not randomly) unless and until the [REDACTED].

4. The security and safety of prospective witnesses before the Court is a serious matter. As the Prosecution has reiterated, the prevalent instability in the Central African Republic (“CAR”), together with the participation of members of armed

¹ ICC-01/14-01/18-225-Conf-Exp-Red.

² ICC-01/14-01/18-176-Conf-Exp.

groups associated with NGAISSONA [REDACTED], renders witnesses in this case particularly vulnerable, both to potential interference and physical harm.

5. Given the well-known security breaches which have occurred within the confines of the ICC Detention Centre in the past, resulting in serious consequences to pending cases and proceedings,³ it is incumbent on the Chamber here to act. Article 68 must be jealously guarded, and nothing within its ambit simply left to chance, as it appears the [REDACTED] has done.

II. CONFIDENTIALITY

6. These Observations are filed as “*EX PARTE*,” only available to the Prosecution and VWU” as they respond to a Decision of the same designation, and contain information which should not be made known to the NGAISSONA Defence at this time. A confidential redacted version of the Observations will be filed contemporaneously.

III. SUBMISSIONS

A. Stringent contact restrictions should be maintained

7. As the Chamber is aware, the Prosecution’s investigations continue in particularly challenging circumstances in CAR. Stringent restrictions on the Suspects’ contacts are necessary and should be imposed commensurate to the risks regarding the integrity of the on-going investigation pursuant to regulation 101(2)(b), and as concerns the protection of witnesses and victims pursuant to regulation 101(2)(c) and (f).

³ See e.g., ICC-01/04-02/06-785-Red.

8. Both the Prosecution's filings and the Chamber's decisions elaborate the relevant and still prevailing justifications. These are incorporated here by reference.⁴

B. The addition of individuals to the Suspect's non-privileged telephone list whose identities and contact details remain unverified is inappropriate

9. The Prosecution is seriously concerned about the [REDACTED] decision to authorise the addition of individuals, [REDACTED], to NGAISSONA's non-privileged list. The determination to do so, "[REDACTED]"⁵ inverts the relevant standard and burden, and if not, applies it inappropriately. Rather than balance the respective interests of the Suspect and the duty of the Court (as a whole) to protect prospective victims and witnesses as the statutory framework commands, [REDACTED] decision appears to go in the opposite direction.

10. While it cannot be said that in every case a Suspect will seek to violate the rules of the Detention Centre, what is at issue here is the reasoned and reasonable balancing of *risk*, which the [REDACTED] fails adequately to address.

11. It is well-known that the ICC Detention Centre has been the subject of serious breaches by Suspects in custody. Those breaches which occurred *from* the Detention Centre itself have resulted, *inter alia*, in seriously damaging consequences for ICC proceedings, including trials. There is a clear risk in failing to [REDACTED] by ICC Suspects. And, if there is any lesson which arises from the ICC Detention Centre's past, it is that those risks need to be very carefully considered and assessed.

⁴ For PTCII Decisions, *see* ICC-01/14-01/18-98-Conf-Exp, para. 7; ICC-01/14-01/18-137-Conf-Exp, para. 18; ICC-01/14-01/18-176-Conf-Red, para. 31; for Prosecution filings, *see* ICC-01/14-01/18-112-Conf-Red, paras. 5-7; ICC-01/14-01/18-131-Conf-Exp, paras. 8, 12-14; ICC-01/14-01/18-112-Conf-Red, paras. 5-7; ICC-01/14-01/18-131-Conf-Exp, para. 8.

⁵ ICC-01/14-01/18-225-Conf-Exp-Red, paras. 14 *et seq.*

12. Authorising NGAISSONA's request to include the proposed individuals in his non-privileged telephone list on the sole basis of an "[REDACTED]",⁶ relies on the trustworthiness of the Suspect alone to assess the potential risk to victims and witnesses. Not only is this deference unacceptable in view of the Court's statutory obligations; to proceed on the basis essentially that 'no information is good information' only exacerbates the error, particularly from a security point of view. Considering that witness security is the very object of the contacts restriction which informs the Chamber's Order, and more broadly, the detainee contacts regime in place at the ICC Detention Centre established by regulation, the approach taken by the [REDACTED] in this case is untenable.

13. As the Prosecution understands the redacted Registry Report, it appears that the [REDACTED] in authorising five proposed additions to NGAISSONA's non-privileged contact list.⁷ A sixth and seventh are pending.⁸ It further appears that a similar erroneous standard was applied concerning the authorisation of two non-privileged visitors of NGAISSONA at the ICC Detention Centre⁹ - where the attendant security risks in terms of [REDACTED], may be even more pronounced.

⁶ *Ibid.*

⁷ See ICC-01/14-01/18-225-Conf-Exp-Red, paras. 14-17, 19.

⁸ See ICC-01/14-01/18-225-Conf-Exp-Red, paras. 18, 20.

⁹ See ICC-01/14-01/18-225-Conf-Exp-Red, para. 25, 26 (visitation authorised without verification of identity; and without indicating that the formal documentation recommended by VWU be provided was requested or obtained by the ICC Detention Centre).

IV. CONCLUSION

14. For the above reasons, the Prosecution requests the Chamber to:

- (1) impose the most stringent contact restrictions through the pre-confirmation process proportionate to the continuing risks; and
- (2) vacate the [REDACTED] to add individuals to NGAISSONA's list of non-privileged contacts [REDACTED]; *or* immediately suspend the [REDACTED], pending the proper [REDACTED]; *or* in the alternative, order the Detention Centre to actively monitor the additional contacts, unless and until such time as [REDACTED].



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 11th day of February 2026
At The Hague, The Netherlands