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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)”,
26 August 2019, ICC-01/14-01/18-289-Conf

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The Office of the Prosecutor

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

2. The Prosecution is concerned about NGAISSONA’s violation of the Chamber’s decision on contact restrictions³ and requests the Chamber to order active monitoring of all of the Suspect’s non-privileged telephone calls. This measure will minimise the risk to the on-going investigation and to witnesses, whose identities are now largely known to the Suspect, and whose security in this case remains precarious.

3. In the alternative, the Prosecution requests that current restrictions on NGAISSONA’s contacts in detention are, at a minimum, maintained and fully implemented through the conclusion of the confirmation proceedings.

4. The Prosecution incorporates its previous submissions regarding prior security issues affecting the ICC Detention centre,⁴ as well as its view that the circumstances of this case make it incumbent on the Chamber to be proactive in ensuring the integrity of these proceedings. This is not only imperative regarding the confirmation hearing, but as concerns any further proceedings, should the matter be bound over to trial.

¹ ICC-01/14-01/18-276-Conf-Exp-Red.

² ICC-01/14-01/18-176-Conf-Red.

³ ICC-01/14-01/18-98-Conf-Exp, as modified by ICC-01/14-01/18-137-Conf-Exp and ICC-01/14-01/18-176-Conf-Exp.

⁴ ICC-01/14-01/18-228-Conf-Exp-Red.

II. CONFIDENTIALITY

5. These Observations are filed as “*EX PARTE*, only available to the Prosecution, Ngaissona Defence, and VWU” as they respond to a Registry Report of the same designation.

III. SUBMISSIONS

A. NGAISSONA violated contact restrictions imposed by the Chamber, which warrants active monitoring of his non-privileged contacts

6. During the last reporting period NGAISSONA violated the Chamber’s decision on contact restrictions.⁵ As described in the Fifth Registry Report, during one of the telephone conversations [REDACTED].⁶ Moreover, the Fifth Registry Report specifies that [REDACTED],⁷ which further contravenes the Chamber’s instructions.⁸

7. This incident demonstrates NGAISSONA’s willingness to violate the Chamber’s decision and validates the necessity of reverting to active monitoring of all of the Suspect’s non-privileged telephone calls. Absent these restrictions NGAISSONA poses a concrete risk to the security of witnesses and the investigation, especially following the Prosecution’s disclosure of sensitive material related to over 140 of its witnesses.

8. In addition, the Chamber should direct the Registry to determine and disclose to the Prosecution the purported identities and contacts of the individuals who spoke to

⁵ ICC-01/14-01/18-98-Conf-Exp, as modified by ICC-01/14-01/18-137-Conf-Exp and ICC-01/14-01/18-176-Conf-Exp.

⁶ ICC-01/14-01/18-276-Conf-Exp-Red, paras.15-16.

⁷ ICC-01/14-01/18-276-Conf-Exp-Red, para.16.

⁸ ICC-01/14-01/18-98-Conf-Exp, para.8.

NGAISSONA during the incident mentioned above to allow the Prosecution better to determine the risks posed to witnesses and to act, as appropriate.

B. In the alternative, the current contact restrictions must minimally be maintained and fully implemented

a. The current contact restrictions must minimally be maintained

9. If the Chamber does not order the active monitoring of all of NGAISSONA's telephone contacts, the current restrictions must minimally be maintained and fully implemented. The Prosecution's investigations continue in particularly challenging circumstances in CAR. The current restrictions on the Suspects' contacts are minimally necessary to attenuate some of the risks posed 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).

10. Witnesses' security in this case is precarious and the Prosecution remains in the process of investigating recurrent security incidents concerning its witnesses, which have also been appropriately notified to the Victim and Witnesses Unit ("VWU"). The Prosecution will update the Chamber with further information as soon as practicable.

11. There has been no abatement in the prevailing security situation in the Central African Republic ("CAR") since the Chamber's 9 July 2019 Decision.⁹ Nor has the [REDACTED] to implement necessary security measures for the protection of witnesses and victims improved.

12. In addition, the Prosecution's Document Containing the Charges ("DCC") is now filed,¹⁰ and NGAISSONA is well informed of the nature and extent of the case

⁹ ICC-01/14-01/18-240-Conf-Exp.

¹⁰ ICC-01/14-01/18-282 and Confidential Annexes A to J.

against him. He has received full disclosure, including of sensitive information concerning over 140 Prosecution Witnesses. Given his history, as spelt out in previous Prosecution filings, NGAISSONA, his current and former associates, and supporters, continue to present a genuine risk to Prosecution Witnesses.

b. The Chamber's Order must, at a minimum, be fully implemented

13. As the Chamber's 9 July 2019 Decision permitted the addition of individuals whose identities and contact information details could not be verified by the VWU to NGAISSONA's non-privileged contact list,¹¹ the Prosecution remains concerned about the proper and full implementation of the Chamber's corresponding Order requiring the "substantially increase[ed]" random monitoring of such contacts.¹²

14. The logistical impediments to the implementation of the Order identified in the Registry Report appear to be predicated on difficulties in monitoring specific contacts, given that [REDACTED].¹³ However, if the regulatory privileges accorded to a detainee by the ICC Detention Centre effectively frustrate the full implementation of the Chamber's Order, it is clear that the privilege cannot stand. In other words, the Chamber's Order should take precedence because it attends to and balances the competing interests involved in the specific case. In this respect, the Chamber's directive "to substantially increase the random monitoring of Ngaissona's telephone calls with the persons whose identities could not be established by the VWU"¹⁴ must be fully implemented – and it can be. The logistical impediment of not knowing whom NGAISSONA intends to contact beforehand can be managed by simply requiring

¹¹ ICC-01/14-01/18-240-Conf-Exp, para.29.

¹² ICC-01/14-01/18-240-Conf-Exp, para.30.

¹³ ICC-01/14-01/18-276-Conf-Exp-Red, para.19.

¹⁴ ICC-01/14-01/18-240-Conf-Exp, para.30.

such information reasonably in advance of any given day on which he is permitted to make non-privileged telephone calls.¹⁵

C. The Prosecution's case is now known to NGAISSONA

15. As noted, the filing of the DCC and the completion of pre-confirmation disclosure in the case presents an appreciable change in circumstances since the Chamber's previous decision. NGAISSONA has a clear understanding of the nature and extent of the charges against him, as well as possesses sensitive information concerning over 140 Prosecution Witnesses. This augments the risk posed to those Witnesses whether directly or indirectly. Their security and protection pursuant to article 68 of the Statute requires, at the very least, that the conditions and restrictions that the Chamber has ordered to date remain in place, vigilantly observed, and fully implemented.

¹⁵ ICC-01/14-01/18-276-Conf-Exp-Red, para.13 (noting that "Mr Ngaissona has the opportunity to make non-privileged telephone calls twice a week, for a period of one hour on each scheduled day").

IV. CONCLUSION

16. For the above reasons, the Chamber should order the Registry to revert back to active monitoring of all of NGAISSONA's non-privileged telephone calls. In addition, it should request that Registry identify and disclose the identity of the third party who communicated with NGAISSONA during the reported incident.

17. In the alternative, existing contact restrictions concerning NGAISSONA should, at a minimum, be maintained and fully implemented through the conclusion of the confirmation proceedings.



Mame Mandiaye Niang, Deputy Prosecutor

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