

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/18
Date: 16 February 2026

TRIAL CHAMBER V

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Chang-ho Chung

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR *v.* ALFRED YEKATOM AND PATRICE-EDOUARD
NGAÏSSONA**

PUBLIC

Public Redacted Version of “Registry Observations on “Defence Observations to the “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-444-Conf-Exp)”, ICC-01/14-01/18-460-Conf-Exp” (ICC-01/14-01/18-469-Conf-Exp) dated 6 April 2020

Source: Registry

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

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☐ **Victims Participation and Reparations
Section**

☐ **Other**

I. Introduction

1. Following an instruction from Trial Chamber V (“Chamber”)¹ to provide observations to the “Defence Observations to the ‘Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II’ (ICC-01/14-01/18-444-Conf-Exp)” (“Order” and “Defence Observations”, respectively), submitted by the Defence for Mr Patrice-Edouard Ngaïssona (“Mr Ngaïssona” or “Defence”)² on 19 March 2020, the Registry hereby submits its observations.

II. Classification

2. In accordance with regulation 23 *bis* (1) of the Regulations of the Court (“RoC”), the present report is classified confidential *ex parte* only available to the Defence for Mr Ngaïssona, and the Registry, as it refers to filings and decisions of the same classification, and because it contains information relating to Mr Ngaïssona’s private life and internal detention-related matters. A confidential redacted version will be made available to the Office of the Prosecutor.

III. Applicable law

3. For the purpose of the present submission, the Registry has considered regulations 90, and 101 of the RoC, and regulations 173, 174, 175, 179, 180, 183, 184, 187, of the Regulations of the Registry (“RoR”).

IV. Procedural history

4. On 23 January 2019, the Single Judge of Pre-Trial Chamber II issued the “Decision pursuant to Regulation 101 of the Regulations of the Court”, in

¹ Email Correspondence from the Associate Legal Officer of Trial Chamber V to the Chief Custody Officer of the Detention Centre on 23 March 2020 at 10:33. A request for an extension was granted until 6 April 2019.

² Defence, “Defence Observations to the “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-444-Conf-Exp)”, 19 March 2020, ICC-01/14-01/18-460-Conf-Exp.

which, *inter alia*, the Registry was directed to put in place several measures to restrict Mr Ngaïssona's contacts.³

5. Following a series of subsequent decisions and Registry reports,⁴ on 15 August 2019, the Registry submitted its "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Fifth Report"), reporting one incident⁵ in which Mr Ngaïssona's interlocutor put the phone on speaker phone and Mr Ngaïssona spoke to a third party who was not on his non-privileged contact list.
6. On 13 September 2019, the Registry submitted its "Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Sixth Report"), reporting its further findings on the incident.⁶
7. On 18 September 2019, the Chamber issued its "Decision Pursuant to Regulation 101 of the Regulations of the Court", deciding, *inter alia*, on the basis

³ Single Judge, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 23 January 2019, ICC-01/14-01/18-98-Conf-Exp, paras. 7-11.

⁴ Pre-Trial Chamber II, "Second Decision Pursuant to Regulation 101 of the Regulations of the Court", 29 January 2019, ICC-01/14-01/18-106-Conf-Exp; Registry, "Registry Report on the Implementation of the Restrictions on Contact Ordered by the Single Judge", 06 February 2019, ICC-01/14-01/18-115-Conf-Exp; Pre-Trial Chamber II, "Third Decision Pursuant to Regulation 101 of the Regulations of the Court", 6 February 2019, ICC-01/14-01/18-114-Conf-Exp; Registry, "Second Registry Report on the Implementation of the Restrictions on Contact of Mr Patrice-Édouard Ngaïssona Ordered by the Single Judge", 25 February 2019, ICC-01/14-01/18-125-Conf-Exp; Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 1 March 2019, ICC-01/14-01/18-137-Conf-Exp, paras. 19-20; Registry, "Third Registry Report on the Implementation of the Restrictions on Contact of Mr Patrice-Édouard Ngaïssona Ordered by Pre-Trial Chamber II", 08 April 2019, ICC-01/14-01/18-166-Conf-Exp; Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 15 April 2019, ICC-01/14-01/18-176-Conf-Red; Registry, "Fourth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II", 17 June 2019, ICC-01/14-01/18-225-Conf-Exp ; Pre-Trial Chamber II, "Decision Pursuant to Regulation 101 of the Regulations of the Court", 9 July 2019, ICC-01/14-01/18-240-Conf-Exp, para. 30.

⁵ Registry, "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Fifth Report"), 15 August 2019, ICC-01/14-01/18-276-Conf-Exp.

⁶ Registry, "Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Sixth Report"), 13 September 2019, ICC-01/14-01/18-337-Conf-Exp.

of the Fifth and Sixth Reports, to suspend all of Mr Ngaïssona's non-privileged telephone calls and non-family, non-privileged visits on an interim basis and to suspend all forms of communication between Mr Ngaïssona and [REDACTED] with whom he had engaged in coded conversation on an interim basis; it also ordered the active monitoring of Mr Ngaïssona's visits of family members.⁷

8. Following the Registry's request for an extension of time for filing its Seventh Registry Report,⁸ on 3 October 2019, the Chamber issued its "Decision on the Registry's Request for an Extension and the Contact Restrictions in place for Ngaïssona" ("Eighth Decision"),⁹ granting the Registry's request and, *inter alia*, deciding: (1) that from 12 October 2019, Mr Ngaïssona would be allowed one hour a week of actively monitored, non-privileged phone calls with family members only, and actively monitored visits with family members only, (2) to maintain these restrictions for the remainder of the pre-trial proceedings, and (3) to suspend until further notice all forms of communication between Mr Ngaïssona and [REDACTED] with whom he engaged in coded conversation.¹⁰
9. On 4 November 2019, the Registry submitted its "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Seventh Registry Report"), reporting its findings on the Pre-Trial Chamber ordered investigation into all of Mr Ngaïssona's non-privileged phone calls from the Fourth Report to 18 September 2019.¹¹
10. On 4 December 2019, the Registry submitted its "Registry Reply to Defence Observations (ICC-01/14-01/18-397-Conf-Exp)" on the Seventh Decision and

⁷ Seventh Decision, para. 52.

⁸ Registry, "Request for an Extension of Time for the submission of the Seventh Report", 27 September 2019, ICC-01/14-01/18-362-Conf-Exp.

⁹ Pre-Trial Chamber II, "Decision on the Registry's Request for an Extension and the Contact Restrictions in place for Ngaïssona" ("Eighth Decision"), 3 October 2019, ICC-01/14-01/18-374-Conf-Exp.

¹⁰ *Ibid.*, paras. 39-42.

¹¹ Registry, "Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Seventh Registry Report"), 4 November 2019, ICC-01/14-01/18-390-Conf-Exp.

Seventh Registry Report, stating that the Registry remains a neutral organ, and clarifying certain procedures in place at the Detention Centre (“DC”) on monitoring telephone calls and visits.¹²

11. On 23 December 2019, the Chamber issued its “Decision pursuant to Regulation 101 of the Regulations of the Court” (“Ninth Decision”),¹³ deciding, *inter alia*, to extend the existing contact restrictions for the remainder of the pre-trial proceedings, and ordered that his non-privileged mail communications be restricted to the individuals on his non-privileged contact list.¹⁴ The Chamber noted that “by reporting on any calls of potential concern, the Registry was in fact following the instructions of the Chamber”.¹⁵ The Chamber also stated that “the Registry Report contains neutral language and relies on quotations of the calls reference” and that the Chamber “finds no evidence that the Registry has shown any bias towards Ngaïssona”, and rejected the Defence request for an independent investigation into the DC.¹⁶

12. On 6 January 2020, the Registry submitted its “Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II”,¹⁷ reporting no incidents.

13. Following the Ninth Decision, on 10 January 2020 the Registry submitted its “Registry Report on the Provision of Transcripts”,¹⁸ providing a chart of

¹² Registry, “Registry Reply to Defence Observations (ICC-01/14-01/18-397-Conf-Exp)”, 4 December 2019, ICC-01/14-01/18-400-Conf-Exp.

¹³ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Ninth Decision”), 23 December 2019, ICC-01/14-01/18-413-Conf-Exp.

¹⁴ *Ibid.*, paras. 80, 89.

¹⁵ Ninth Decision, para. 88.

¹⁶ Ninth Decision, para. 88.

¹⁷ Registry, “Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (“Eighth Registry Report”), 6 January 2020, ICC-01/14-01/18-416-Conf-Exp.

¹⁸ Registry, “Registry Report on the Provision of Transcripts”, 10 January 2020, ICC-01/14-01/18-417-Conf-Exp.

transcripts disclosed and explaining the working practices of the Registry as regards differences between transcripts.

14. Following the Defence Observations on the Eighth Registry Report and its Addendum,¹⁹ on 3 February 2020 the Chamber issued its “Decision Pursuant to Regulation 101 of the Regulations of the Court”,²⁰ deciding, *inter alia*, to “maintain the existing restrictions for the remainder of the pre-trial proceedings”.²¹
15. On 6 March 2020, the Registry submitted its “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II”,²² reporting no incidents.
16. On 16 March 2020, the Presidency constituted the Chamber and referred to it the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*.²³
17. On 19 March 2020, the Defence submitted its “Observations to the “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-444-Conf-Exp)”²⁴, requesting the Chamber to immediately lift all restrictions, or to urgently examine the matter *de novo*”.²⁵

¹⁹ Defence, “Defence Observations Pursuant to the “Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-416-Conf-Exp)”, 20 January 2020, ICC-01/14-01/18-420-Conf-Exp; Defence, “Addendum to Defence Observations Pursuant to the “Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-416-Conf-Exp), ICC-01/14-01/18-420-Conf-Exp”, 21 January 2020, ICC-01/14-01/18-421-Conf-Exp.

²⁰ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Tenth Decision”), 3 February 2020, ICC-01/14-01/18-424-Conf-Exp.

²¹ *Ibid.*, para. 30.

²² Registry, “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II”, 6 March 2020, ICC-01/14-01/18-444-Conf-Exp.

²³ Presidency, “Decision constituting Trial Chamber V and referring to it the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*”, 16 March 2020, ICC-01/14-01/18-451.

²⁴ Defence, “Defence Observations to the “Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II” (ICC-01/14-01/18-444-Conf-Exp)”, 19 March 2020, ICC-01/14-01/18-460-Conf-Exp.

²⁵ See Defence Observations, paras. 2-3, 32.

18. On the same day, the Chief Custody Officer (“CCO”) of the DC of the International Criminal Court (“ICC”) issued a memo to all detained persons informing them of the urgent measures taken at the DC to protect them against the spread of the COVID-19 coronavirus pandemic.

V. Submissions

19. In its Order,²⁶ the Chamber instructed the Registry to make submissions on (i) the Defence Observations to the Ninth Registry Report and (ii) the measures taken at the DC in regards to the COVID-19 pandemic.

Observations on the Ninth Registry Report

20. In the Defence Observations, the Defence appears to take issue with (i) the Registry’s reporting of incidents to the Pre-Trial Chamber,²⁷ (ii) the removal of contacts from Mr Ngaïssona’s non-privileged contact list,²⁸ and (iii) the conditions of his actively monitored family visits.²⁹ The Registry will address each of these issues in turn.

(i) Registry reported incidents

21. The Registry reiterates that it is the neutral organ of the Court, tasked with implementing the restrictions on Mr Ngaïssona’s contacts as ordered by the Pre-Trial Chamber. In implementing these restrictions, the Registry reports on incidents that may have occurred during telephone calls, visits or mail. Though the Defence “incorporates by reference its previous submissions, including on the perceived arbitrary nature of certain reported incidents by the Registry”,³⁰ the Pre-Trial Chamber previously concluded that “by reporting on any calls of potential concern, the Registry was in fact following the instructions of the

²⁶ Supra fn 1.

²⁷ Defence Observations, para. 7.

²⁸ Defence Observations, para. 24.

²⁹ Defence Observations, para. 25.

³⁰ Defence Observations, para. 7.

Chamber”, and found “no evidence that the Registry has shown any bias towards Ngaïssona.”³¹

(ii) Removal of contacts from non-privileged contact list

22. The Defence argues that several close family members were temporarily removed from his contact list by the CCO and never reinstated.³² For the information of the Chamber:

- a. On 14 July 2019, the CCO temporarily removed one individual (Mr Ngaïssona’s [REDACTED]) due to concerns of breaches. After considering the matter, the Pre-Trial Chamber confirmed the CCO’s decision and decided to suspend until further notice all forms of contact between Mr Ngaïssona and the individual in question.³³
- b. On 4 November 2019 the CCO decided to remove a second individual (Mr Ngaïssona’s [REDACTED]), and a third individual (“[REDACTED]”),³⁴ because of serious concerns at attempts to circumvent the verification procedure of the DC. The Pre-Trial Chamber later considered that, due to the attempts of the individuals to circumvent the verification procedure of the DC, this removal was appropriate.³⁵
- c. A fourth individual, (also a “[REDACTED]”), was not approved to Mr Ngaïssona’s non-privileged contact list because the Registry determined the individual was not a family member, and Mr Ngaïssona’s contact is

³¹ Ninth Decision, para. 88.

³² Defence Observations, paras. 7, 24.

³³ Seventh Decision, paras. 54-55; Eighth Decision, paras. 39-42; Ninth Decision, paras. 79, 86, 89.

³⁴ The Defence submissions state that this individual is [REDACTED] of Mr Ngaïssona. *See* Ninth Decision, para. 53.

³⁵ Ninth Decision, para. 84.

restricted to family members. The Pre-Trial Chamber considered that this removal was appropriate.³⁶

(iii) Conditions of family visits

23. The Defence states that “visits can only be accommodated for a maximum of two hours per visit, and cannot be accommodated for during the weekend”.³⁷ This is correct. There are no visits to the DC on Sunday, and only limited visiting hours on Saturday. As previously detailed to the Defence, the Registry cannot accommodate actively monitored visits on Saturdays, because these visits require ICC staff, who do not work on the weekends.

24. Additionally, actively monitored visits are typically scheduled in two hour blocks, one in the morning and one in the afternoon. The Registry interpreters need scheduled breaks and also have daily maximums of hours that they can effectively actively listen and interpret.

25. For the information of the Chamber, [REDACTED]. This was before the COVID-19 measures from the DC were put in place.

In relation to the measures taken in relation to COVID-19

26. As a result of the COVID-19 pandemic in the Netherlands and the world, on 19 March 2020, the CCO issued a memo to all detained persons informing them of certain new measures at the DC aimed at reducing contacts from the outside world with the detained persons. This included temporarily suspending all visits to the DC, including legal visits, which can still be conducted *via* telephone, and case work can still be worked on *via* the Defence network.³⁸

³⁶ Ninth Decision, paras 83-84.

³⁷ Defence Observations, para. 25.

³⁸ [REDACTED].

27. All measures put in place at the DC were recommended by the Medical Officer, pursuant to regulation 155(2) of the RoR, and follow the measures already in place by the host State prison authorities. Furthermore, the measures were undertaken following consultation and agreement between the [REDACTED].
28. The Registry considers that the Defence should address these detention related matters to the Registrar and the Presidency, through the complaint procedure regarding detention conditions as articulated in the RoR. [REDACTED].³⁹ The complaint procedure provides Mr Ngaïssona with recourse to the Registrar and then to the President should he not be satisfied with the decisions rendered.
29. In the Defence Observations, the Defence submits that Mr Ngaïssona's "effective isolation" has been "exacerbated" by the DC's response to the COVID-19 pandemic. The Defence takes issue with (i) the restrictions on visits, including legal visits, (ii) and the temporary ban on the import of items.⁴⁰
30. As previously mentioned, in-person legal visits are suspended during the COVID-19 pandemic. This is consistent with the host State policy. Legal consultations continue over the phone during the daytime, and documents and other items can continue to be worked on through the secure defence network, as mentioned above.
31. The Registry considers that contact with family members is an important part of the psycho-social well-being of detained persons, especially during this pandemic, and as such it will continue to do its best during this crisis to facilitate communications for all detained persons to the extent possible, having regard to their safety and the safety of ICC and DC Staff, and any applicable Chamber's orders.

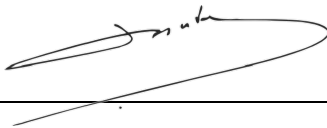
³⁹ Defence Observations, para. 30.

⁴⁰ Defence Observations, para. 11.

32. As such, the Registry continues to offer Mr Ngaïssona the opportunity to make telephone calls twice a week, according to the schedule already provided to him. Currently, the Registry does not have any difficulties with implementing the active monitoring restrictions, even with the COVID-19 outbreak. The Registry notes, however, that Mr Ngaïssona [REDACTED].⁴¹

33. The Registry continues to work on feasible alternatives to the COVID-19 measures where possible and safe. For example, [REDACTED].

34. Finally, all detained persons have received [REDACTED] in order to compensate for the restriction of visits, from the host State Prison Authorities. [REDACTED].


A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Marc Dubuisson, Director of the Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 16 February 2026

At The Hague, The Netherlands

⁴¹ See Eighth Registry Report, para. 9.