

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

*Original: English*

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

**TRIAL CHAMBER V**

**Before:** Judge Bertrand 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 “Request to allow Defence team in-person visit to Mr Ngaïssona in order to prepare for the Status Conference of 9 July 2020”, ICC-01/14-01/18-564-Conf” (ICC-01/14-01/18-568-Conf-Exp) dated 24 June 2020**

**Source:** Registry

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

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

D30

D29

☒ **Legal Representatives of the Victims**

V44

V45

☐ **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**

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**Registrar**

M. Zavala Giler, Osvaldo

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☒ **Detention Section**

☐ **Victims Participation and Reparations  
Section**

☐ **Other**

## Introduction

1. Pursuant to the email instruction given by Trial Chamber V (“Chamber”),<sup>1</sup> the Registry submits in accordance with regulation 24 *bis* of the Regulations of the Court (“RoC”), its observations on the matters raised in the “Request to allow Defence team in-person visit to Mr Ngaïssona in order to prepare for the Status Conference of 9 July 2020” filed by the defence for Mr Patrice-Edouard Ngaïssona (“Request”, “Defence” and “Mr Ngaïssona”, respectively).<sup>2</sup>
2. The Registry recalls that because of the temporary suspension due to the Covid-19 pandemic (“Pandemic”) of in-persons visits in the International Criminal Court Detention Centre (“ICC”, “Court” and “DC”, respectively), viable alternatives exist *via* privileged telephone and privileged video conferencing (“PVC”) and a privileged virtual private network to allow for the Defence team to conduct privileged communications with Mr Ngaïssona. The Registry recommends that, for the time being, the Defence preparation is conducted *via* these alternative means, for the health and safety of Mr Ngaïssona and the other detained persons at the ICC and neighbouring international detention facilities.

### I. Classification

3. In accordance with regulation 23 *bis*(2) of the RoC, the present report is classified confidential *ex parte* only available to the Defence for Mr Ngaïssona, and the Registry, as it refers to documents and decisions with the same classification, and because it contains information relating to Mr Ngaïssona’s privacy and internal detention-related matters.

### II. Applicable law

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<sup>1</sup> Email from Trial Chamber V to the Office of the Director DJSS, “Responses and observations to ICC-01/14-01/18-564-Conf”, 22 June 2020 at 15:02.

<sup>2</sup> Defence, “Request to allow Defence team in-person visit to Mr Ngaïssona in order to prepare for the Status Conference of 9 July 2020” (“Request”), 22 June 2020, ICC-01/14-01/18-564-Conf.

4. For the purpose of the present submission, the Registry has considered regulations 96, 97(2) and 103 (1) of the RoC, and regulations 151, 154, 155, and 156 of the Regulations of the Registry (“RoR”).

### III. Procedural history

5. Since 19 March 2020 measures have been in place at the DC in order to “protect the health, safety and lives of the detained persons” by “minimizing the number of contact to detained persons, and thus the risk of contamination”.<sup>3</sup> The Presidency has approved measures proposed by the Registrar, under regulation 96 (2) of the RoC, following the medical advice of the Medical Officer of the DC (“MO”), currently until the 29 June 2020 (inclusive).<sup>4</sup>
6. On 4 June 2020, Trial Chamber V submitted its Second Order Scheduling First Status Conference (“Second Order”) setting up the First Status Conference to take place on 9 July 2020.<sup>5</sup>
7. On 5 June 2020, the Defence submitted its “Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits”,<sup>6</sup> asking the Chamber, *inter alia*, to order the CCO to allow [REDACTED] to conduct in-

<sup>3</sup> CCO Memo, “URGENT New Detention Centre Temporary Measures Regarding COVID-19”, DS/2020/023/PC/mc, 19 March 2020.

<sup>4</sup> CCO Memo, “Extension of Detention Centre Temporary Measures Regarding COVID-19”, DS/2020/043/PC/mc, 9 April 2020; CCO Memo, “Notice of Extension of Detention Centre COVID-19 Temporary Measures and Presidency Approval of the Suspension of Relevant Regulations”, DS/2020/046/PC/mc, 24 April 2020; CCO Memo, “Notice of Extension of Detention Centre COVID-19 Temporary Measures and Presidency Approval of the Suspension of Relevant Regulations until 1 June 2020”, DS/2020/057/HT/mc, 22 May 2020; CCO Memo, “Notice of Extension of Detention Centre COVID-19 Temporary Measures and Presidency Approval of the Suspension of Relevant Regulations until 8 June 2020”, DS/2020/058/PC/mc, 1 June 2020; CCO Memo, “Notice of Extension of Detention Centre COVID-19 Temporary Measures until 15 June 2020 and Re-applicability of the Time Limits for Complaints”, DS/2020/060/PC/mc, 10 June 2020; CCO Memo, “Notice of Extension of Detention Centre COVID-19 Temporary Measures until 29 June 2020”, DS/2020/061/PC/mc, 16 June 2020.

<sup>5</sup> Trial Chamber V, “Second Order Scheduling First Status Conference”, 4 June 2020, ICC-01/14-01/18-543, para. 7.

<sup>6</sup> Defence, “Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits”, 5 June 2020, ICC-01/14-01/18-544-Conf-Exp.

person visits to Mr Ngaïssona at the Detention Centre, accompanied by an interpreter, for the duration of a [REDACTED].<sup>7</sup>

8. On 17 June 2020, the Registry submitted its “Registry Observations on “Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits”, ICC-01/14-01/18-544-Conf-Exp” recommending that [REDACTED] make use of the PVC in order conduct [REDACTED] until physical visits resume.<sup>8</sup>
9. On 18 June 2020, the Single Judge of the Trial Chamber V rejected the request for an in-person visit by [REDACTED] on 22 June 2020. The Single Judge indicated that a “fully reasoned decision will be issued in due course”.<sup>9</sup>
10. On 22 June 2020, the Defence submitted its “Request to allow Defence team in-person visit to Mr Ngaïssona in order to prepare for the Status Conference of 9 July 2020” (“Request”) requesting the Chamber to, *inter alia*, order that “visits between Mr Ngaïssona and privileged members of his Defence team be resumed in order to prepare the upcoming Status Conference scheduled on 9 July 2020”.<sup>10</sup>
11. On 22 June 2020, the Chamber invited the Registry to submit its observations to the Request by 24 June 2020.<sup>11</sup>

#### IV. Submissions

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<sup>7</sup> Email from Trial Chamber V to the Registry, “Submissions on ICC-01/14-01/18-544-Conf-Exp”, 8 June 2020 at 11:38.

<sup>8</sup> Registry, “Registry Observations on “Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits” (“Registry Observations”), ICC-01/14-01/18-544-Conf-Exp”, 17 June 2020, ICC-01/14-01/18-557-Conf-Exp.

<sup>9</sup> Email from Trial Chamber V to Office of the Director DJSS, “Decision on Defence Request ICC-01/14-01/18-544-Conf-Exp”, 18 June 2020, at 16:20.

<sup>10</sup> Request, para. 1.

<sup>11</sup> Email from Trial Chamber V to the Office of the Director DJSS, “Responses and observations to ICC-01/14-01/18-564-Conf”, 22 June 2020 at 15:02.

12. As a preliminary remark, the Registry recalls that the temporary COVID-19 measures in place at the DC until 29 June 2020 include, *inter alia*,:

- a. temporary suspension of all physical visits to the DC, including legal visits;
- b. temporary suspension of non-acute in-person medical appointments.<sup>12</sup>

1) *In relation to Mr Ngaïssona's medical appointment*

13. In its Request, the Defence asserts that non-essential visits have resumed at the DC.<sup>13</sup> Contrary to this assertion, the Registry confirms that only acute medical appointments requiring the in-person visitation of a medical healthcare professional are allowed.

14. Due to the COVID-19 temporary measures, all non-acute medical appointments are suspended and only appointments considered by the MO to be of vital necessity will take place. Furthermore, medical appointments will only be scheduled when those acute appointments cannot be performed remotely, and thus require the physical presence of the medical professional at the DC.

15. As noted in the Defence submissions, on 18 June 2020, Mr Ngaïssona received acute medical care from a pedicurist. [REDACTED]. The in-person visit was allowed because [REDACTED]. [REDACTED].<sup>14</sup>

16. While the Registry is not able to discuss the specifics of Mr Ngaïssona's medical care, due to confidentiality reasons, the Chamber, should it wish so, may

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<sup>12</sup> CCO Memo, "URGENT New Detention Centre Temporary Measures Regarding COVID-19", DS/2020/023/PC/mc, 19 March 2020; Registry, "Registry Observations on "Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits", ICC-01/14-01/18-544-Conf-Exp", 17 June 2020, ICC-01/14-01/18-557-Conf-Exp, para. 16.

<sup>13</sup> Request, para. 19.

<sup>14</sup> Annex I.

request a confidential medical report from the MO by virtue of regulation 156(4) of the RoR, subject to the provision of consent by the detained person.

17. When coming into the DC to perform medical care, a medical practitioner must comply with the internal medical services procedures in order to protect the health of the patient, enhanced during COVID-19. [REDACTED].
- 2) *Allowing the Defence to conduct in-person visits at the DC in the light of preparing the upcoming First Status Conference*
18. As previously reported,<sup>15</sup> the temporary COVID measures restricting, *inter alia*, in-person visits by defence teams were taken with due consideration of regulations 90 and 103 of the RoC, to protect the health and safety of the detained persons by minimizing the number of contact to detained persons, and thus minimizing as much as possible the risk of transmitting COVID-19 to the detained persons.
19. While the current measures do not allow for physical visits to Mr Ngaïssona by his defence team, legal visits may well take place digitally *via* the newly established PVC network.<sup>16</sup>
20. Due to the evolving nature of the current COVID-19 pandemic worldwide and in The Netherlands, it is difficult to predict when in-person privileged visits could resume at the DC. The Registry is in regular contact with the host State custodial authorities regarding the easement of restrictive measures within the host State prison system. However, in making his medical recommendations

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<sup>15</sup> Registry, "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", 6 April 2020, ICC-01/14-01/18-469-Conf-Exp, paras. 26-34; Trial Chamber V, "Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention", 17 April 2020, ICC-01/14-01/18-484-Conf-Exp-Red, para. 28; Registry Observations, paras. 16-18.

<sup>16</sup> Registry Observations, paras. 22-23.

under regulation 155, the ICC MO must also take into consideration the particular circumstances and vulnerabilities of the detained persons of the ICC, which are unique from the general prison population of The Netherlands. To this end, the Registrar and Presidency will shortly be considering and deciding upon the MO's recent recommendations regarding an extension of the measures past 29 June 2020.

*Background of communication with Defence Team on requests for physical visits to the DC*

21. From 15 April 2020 until 16 June 2020, the Defence and the CCO have been engaged in communication regarding the facilitation of video-conferencing and in-person visits to Mr Ngaïssona for both [REDACTED] and the Defence team.<sup>17</sup>
22. In relevant summary, on 15 April 2020 the Defence emailed the CCO in order "to explore the possibility of allowing [REDACTED], an expert [REDACTED] who was recently appointed on our team, to conduct an assessment of Mr Ngaïssona through video-call."<sup>18</sup> The CCO acknowledged the email on the same day.<sup>19</sup>
23. On 22 April 2020 the Defence emailed the CCO enquiring whether there had been any developments.<sup>20</sup> On the same day, the CCO replied, "[v]ideo conference calls are not currently a possibility at the DC. However, telephone calls remain an option."<sup>21</sup>

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<sup>17</sup> Annex II.

<sup>18</sup> Email from the Defence for Mr Ngaïssona to the CCO on 15 April 2020.

<sup>19</sup> Email from the CCO to the Defence for Mr Ngaïssona on 15 April 2020.

<sup>20</sup> Email from the Defence for Mr Ngaïssona to the CCO on 22 April 2020.

<sup>21</sup> Email from the CCO to the Defence for Mr Ngaïssona on 22 April 2020.

24. On 26 May 2020 the Defence emailed the CCO enquiring “whether it would be possible to allow [REDACTED] to visit Mr Ngaïssona on the 8th of June, or on a date shortly thereafter”.<sup>22</sup>

25. The CCO replied on 27 May, “At this point in time and in line with the advice of the ICC MO and the national position of the Host State it is not possible to facilitate a physical visit to the DC. As your defence team will be aware, the Registry is working towards developing and rolling out a system of facilitating video-conferencing between the defence teams and detained persons”.<sup>23</sup>

26. On 15 June 2020 the Defence emailed the CCO requesting an update on “the availability of a video-conferencing system between detainees and defence teams. During a call today, [REDACTED] noted that such a system has been put in place. However, we never received official notice of this system being available, nor have we received rules as to how it will work in practice.”<sup>24</sup>

27. The CCO replied on 16 June that “we are in the final stage of quality assuring the reliability and stability of the system. We have a couple of technical issues which we are nailing down and hope to be done by today or tomorrow at the latest. We don’t want to give a system to DTs that causes frustration and complaints if it is not reasonably reliable within the custodial environment. Then the DTs will receive some guidance and explanation via CSS and the DS”.<sup>25</sup>

*Registry Observations on the use of PVC by Defence Teams*

28. On 17 June 2020, the Counsel Support Section (CSS) [REDACTED].

29. [REDACTED]”.<sup>26</sup> On 22 June 2020, the Defence replied, “[REDACTED]”.<sup>27</sup>

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<sup>22</sup> Email from the Defence for Mr Ngaïssona to the CCO on 26 May 2020.

<sup>23</sup> Email from the CCO to the Defence for Mr Ngaïssona on 27 May 2020.

<sup>24</sup> Email from the Defence for Mr Ngaïssona to the CCO on 15 June 2020.

<sup>25</sup> Email from the CCO to the Defence for Mr Ngaïssona on 16 June 2020.

<sup>26</sup> Email from the Registry to the Defence of Mr Ngaïssona on 22 June 2020 at 11:46.

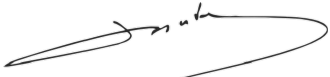
<sup>27</sup> Email from the Defence of Mr Ngaïssona to the Registry on 22 June 2020 at 11:54.

30. At the time of the drafting of this filing, the Registry has not yet received a [REDACTED]. [REDACTED].

31. Whereas several Defence teams are already utilizing the PVC meetings, the DC has not yet received a request from the Defence for Mr Ngaïssona to utilize this system.

32. In its Request, the Defence asserts that “the [PVC] system has not been tested yet by any Defence team members and its reliability is uncertain”.<sup>28</sup> However, the Registry confirms that several Defence teams, on multiple occasions, have already been using the PVC with success. Regarding the Defence concerns as to its reliability, the Registry remains ready to address any challenges that arise to this new system as a matter of urgency.

33. In conclusion, the Registry reports that the PVC is now established at the DC and final quality assurance testing has already taken place. The PVC offers a concrete solution to the COVID-19 measure of restricting in-person visits with Defence teams, and allows privileged visits to be conducted digitally by using a secured video-conferencing technology. The Registry therefore recommends its use as an alternative to in-person legal visits at this time.



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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

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<sup>28</sup> Request, para. 13.