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No.: **ICC-01/14-01/18**
Date: **24 February 2026**

TRIAL CHAMBER V

Before: Judge Beti Hohler,, Presiding Judge
Judge Joanna Korner
Judge Keebong Paek

**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 on the ‘First Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Trial Chamber V’ (ICC-01/14-01/18-546-Conf-Exp)”,
ICC-01/14-01/18-555-Conf, 15 June 2020**

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The Office of the Prosecutor

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Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants

(Participation/Reparation)

States Representatives

Amicus Curiae

REGISTRY

Registrar

[REDACTED]

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) provides its observations on the Registry’s 8 June 2020 report on the implementation of contact restrictions regarding NGAISSONA¹, as ordered by Trial Chamber V (“Chamber”) pursuant to regulation 101 of the Regulations of the Court (“RoC”).²

2. The prevailing circumstances warrant the extension of the Chamber’s 17 April 2020 Order through the next period of review.³ *First*, as previously noted,⁴ NGAISSONA has a documented history demonstrating a willingness to violate court-ordered contact restrictions while in detention. *Second*, the circumstances justifying the Order continue to prevail. Further, the response of the Central African Republic (“CAR”) to the COVID-19 pandemic has made the assessment and implementation of witness protection measures even more difficult. *Third*, relaxing the Order would inevitably heighten the risk to witnesses in this case; especially given the Chamber’s recent order requiring that the Prosecution already provide a “preliminary witness list”⁵ identifying the witnesses it is certain to call.⁶

II. CONFIDENTIALITY

3. Pursuant to regulation 23*bis*(1) of the RoC, this document is filed as “confidential, *ex parte* only available to the NGAISSONA Defence, the Prosecution and the Registry”, as it refers to filings and decisions of the same classification. The Prosecution does not object its reclassification as “confidential” should the Chamber deem this appropriate.

¹ ICC-01/14-01/18-546-Conf-Exp (“First Report”).

² See ICC-01/14-01/18-484-Conf-Exp, p. 17 (“Order”).

³ See ICC-01/14-01/18-484-Conf-Exp, para. 29 and p. 17; ICC-01/14-01/18-540-Conf, para. 6, 13.

⁴ See ICC-01/14-01/18-474-Conf.

⁵ ICC-01/14-01/18-528, para. 4.

⁶ The Prosecution notes that a First Status Conference is scheduled for 9 July 2020 (see ICC-01/14-01/18-543, p. 6).

III. SUBMISSIONS

A. NGAISSONA has shown that he is willing to violate the Court's orders

4. As noted in the Prosecution's previous filings on this matter and incorporated by reference herein, NGAISSONA has a demonstrated history of violating the orders of the Court concerning restrictions on contact while in detention.⁷

5. This Chamber has also acknowledged Pre-Trial Chamber II's finding to this effect — specifically, that NGAISSONA violated pre-trial contact restrictions on a number of occasions by, *inter alia*, (i) communicating with non-authorised individuals, and (ii) providing instructions to individuals on how to present their relationship to him to the Detention Centre during the verification process.⁸

6. That NGAISSONA has elected not to avail himself of the non-privileged telephone contacts which the Registry continues to make available to him,⁹ in no way undermines the continuing propriety or necessity of the Order. Nor, should restrictions on physical contact implemented by the Registry as a COVID-19 temporary response measure to protect the health and safety of all of the Court's detainees¹⁰ have any impact on the Chamber's assessment. Neither circumstance is relevant to the Chamber's considered determination that NGAISSONA's previous and repeated use of coded language and interaction with unauthorised individuals "demonstrate his willingness to disregard the restrictions and to conceal conversations from the Registry and ultimately the Chamber."¹¹

⁷ See ICC-01/14-01/18-453-Conf-Exp, paras. 1-7; ICC-01/14-01/18-413-Conf-Exp, paras. 82-84.

⁸ See ICC-01/14-01/18-484-Conf-Exp-Red, paras. 3-4.

⁹ ICC-01/14-01/18-546-Conf-Exp, para. 11.

¹⁰ ICC-01/14-01/18-546-Conf-Exp, para. 14.

¹¹ ICC-01/14-01/18-484-Conf-Exp-Red, para. 22.

7. Both this Chamber and Pre-Trial Chamber II have properly recognised NGAISSONA's prior misconduct as constituting a "serious matter".¹² As such, the mere passage of time,¹³ the Accused's inactivity, or the absence of any incidents as related in the Registry's First Report,¹⁴ does not mitigate or diminish the *risk* to the integrity of the proceedings or otherwise attenuate the Chamber's duty to protect under article 68.¹⁵

8. The Chamber previously observed, "[it] is not persuaded that the mere absence of incidents violating the restrictions leads to the conclusion that restrictions are no longer necessary."¹⁶ By contrast, the risk found by the Chamber in only April of this year warranting the issuance of the Order continues just the same, as set out below. If anything, the risk is instead heightened in the circumstances.

B. The circumstances justifying the Order continue to prevail

9. The current contact restrictions concerning NGAISSONA remain necessary to protect witnesses and victims pursuant to regulation 101(2)(c) and (f), and to protect the Prosecution's ongoing investigations pursuant to regulation 101(2)(b). The facts justifying the Order are unabated.

10. In the Order, the Chamber took account of several dispositive and continuing circumstances. *First*, the Chamber cited to NGAISSONA's incontestably important role in the Ani-Balaka and in CAR, "which could enable him to 'reach, intimidate, or harm (potential) witnesses, their families or other individuals cooperating with the Court'".¹⁷ *Second*, the Chamber found that NGAISSONA "has the means to reach out

¹² See ICC-01/14-01/18-484-Conf-Exp-Red, para. 22 (citing, ICC-01/14-01/18-357-Conf-Exp, para. 49).

¹³ ICC-01/14-01/18-484-Conf-Exp-Red, para. 18 (citing, *inter alia*, ICC-01/14-01/18-413-Conf-Exp-Red, para. 78).

¹⁴ ICC-01/14-01/18-546-Conf-Exp, para. 14.

¹⁵ ICC-01/14-01/18-484-Conf-Exp-Red, para. 24 (noting that "refraining from prohibited conduct should be the norm").

¹⁶ ICC-01/14-01/18-484-Conf-Exp-Red, para. 24.

¹⁷ ICC-01/14-01/18-484-Conf-Exp-Red, para. 23 (citing, ICC-01/14-01/18-98-Conf-Exp, para. 7).

to witnesses in this case, who largely reside in the CAR.”¹⁸ *Third*, as is well-known, the Prosecution continues its investigative activities,¹⁹ including in respect of the Seleka Investigation.²⁰ All of these circumstances, by their nature, remain unchanged presently.

11. Moreover, the prevailing circumstances within CAR remain fundamentally the same. If anything, they have been exacerbated by the understandable continuation of the country’s public health response to the COVID-19 pandemic. Notably, travel and contact restrictions in CAR in place since 26 March 2020²¹ remain largely in effect, as the country’s infection rate steadily climbs.²² These measures thus continue to impact the Prosecution’s [REDACTED]. In these circumstances, it is important that the Chamber take this important factor into account in balancing the respective rights and obligations of the Parties, as well as the interests of the Court and the proceedings.

12. Furthermore, the attendant risks to victims and witnesses associated with this case are ongoing. The Anti-Balaka are still active throughout CAR, and together with other armed groups, control significant territory in the country wherein they continue to commit serious violations of human rights and international humanitarian law.²³ Significantly, members of these groups comprise individuals with ties to both Accused in this case.

¹⁸ ICC-01/14-01/18-484-Conf-Exp-Red, para. 23.

¹⁹ ICC-01/14-01/18-474-Conf, para.10; *see* ICC-01/14-01/18-473-Conf, para. 6 (REDACTED), *see also*, paras. 8-9.

²⁰ ICC-01/14-01/18-474-Conf, paras. 24, 31.

²¹ *See* 26 March 2020, Statement of President Touadera (available at <http://lepotentielcentrafricain.com/centrafriquemessage-a-la-nation-de-son-excellence-le-professeur-faustin-archange-touadera-president-de-la-republiquechef-de-letat-a-la-suite-de-la-decouverte-du-premier-cas-din/>) [last accessed, 15 June 2020].

²² Between 3 June 2020 and 10 June 2020, the number of cases of COVID-19 increased in Central African Republic 73% (from 1 069 to 1 850 cases). *See* COVID-19 Situation Update for the WHO African Region 10 June 2020, External Situation Report 15, p. 2, 3 (available at https://apps.who.int/iris/bitstream/handle/10665/332321/SITREP_COVID-19_WHOAFRO_20200610-eng.pdf) [last accessed, 15 June 2020]. Notably, CAR’s Ministry of Health reported, as of 13 June 2020, 2222 cases. *See* Ministère de la Santé et de la Population, *Communiqué de Presse, 13 juin 2020* (available at, <https://twitter.com/MSPCentrafrique/status/1272229736127836160?s=09>) [last accessed, 15 June 2020].

²³ ICC-01/14-01/18-478-Conf-AnxII-tENG, para. [REDACTED].

13. In addition, NGAISSONA faces several confirmed charges carrying serious consequences for his freedom, reputation, and political and economic ambitions. As the case proceeds towards a trial, the risk that he may undertake action to undermine the proceedings likewise increases. Thus, reducing the contact restrictions at this time and in such circumstances, rather than accommodate a legitimate interest, would instead place the integrity of the proceedings at unnecessary risk.

C. Relaxing the Order would heighten the risk to witnesses

14. Importantly, the Order placed significance on the fact of NGAISSONA's knowledge of the identities of many Prosecution witnesses in justification of the restrictions imposed. Not only does this continue to be the case, given that the Chamber has directed the Prosecution to identify witnesses whom it is certain to call for trial and thus, more precisely, identify potentially fruitful targets of corrupt influence, the attendant risks of modifying the Order are all the more serious.

15. Allowing NGAISSONA to contact his supporters and associates by modifying the current restrictions would increase the risk of tampering with witnesses. As a result, they may become reluctant to cooperate or to remain involved with this case.

16. Given the Chamber's prior findings regarding the risks to the proceedings and the Pre-Trial Chamber's previous determination that "there is a *high risk* that Ngaissona may engage in further attempts to circumvent the restrictive measures in place",²⁴ any lesser restrictions than those imposed in the Order would not *effectively* ensure the integrity of these proceedings.

17. By contrast, allowing NGAISSONA to maintain contact with his family and others as provided for in the Order, is not unduly burdensome or disproportionate

²⁴ ICC-01/14-01/18-413-Conf-Exp-Red, paras. 85-86 (emphasis added).

when weighed against the serious risks to this case and the prospect of justice for the victims of the charged crimes, if the current restrictions are reduced.

IV. CONCLUSION

18. For the above reasons, the Prosecution requests that the Chamber continue the contact restriction Order through the next scheduled review period.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 24th day of February 2026
At The Hague, The Netherlands