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No.: **ICC-01/14-01/18**

Date: **25 February 2025**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. ALFRED YEKATOM AND PATRICE-
EDOUARD NGAÏSSONA***

Public

**Public redacted version of "Third Request for Order to Obtain Certain ICC
Detention Unit Records of Patrice-Edouard Ngaïssona"
1 August 2022, ICC-01/14-01/18-1537-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]

[REDACTED]

Counsel for Alfred Yekatom

Counsel for Patrice-Edouard Ngaïssona

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

Detention Section

**Victims Participation and Reparations
Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) requests Pre-Trial Chamber II (“Chamber”) to direct the Registry to provide it with a limited number of Patrice Edouard NGAISSONA’s (“NGAISSONA”) ICC Detention Centre telephone logs, telephone attribution information, recordings, and any related internal translation the Registry might possess, pursuant to article 57(3). This information, specified in paragraph 23 below, is vital to the Prosecution’s investigation of potential article 70 offences in the *Yekatom* and *Ngaïssona* trial (“Main Case”).

2. As in the case of the Prosecution’s previous applications to the Chamber, this Request is narrowly framed so as to verify or corroborate information recently obtained from [REDACTED]. The relevant [REDACTED] exchanges show that during the course of trial, NGAISSONA contacted [REDACTED] — an unauthorised third-party associated with [REDACTED]. In that contact, [REDACTED].

3. The conduct described is consistent with a similar incident presented to the Chamber in April 2021 concerning the [REDACTED].

II. CONFIDENTIALITY

4. The Request is filed as “Confidential, *EX PARTE*, available only to the Prosecution” because it contains sensitive information pertaining to witness security. The Request also contains confidential information about the Prosecution’s on-going investigation.

III. BACKGROUND

- a. Recently obtained [REDACTED] records show that NGAISSONA improperly [REDACTED]

5. Recently obtained [REDACTED] records indicate that, [REDACTED],¹ [REDACTED].

6. On 15 July 2022, the Prosecution received [REDACTED] records further to its ongoing article 70 inquiry, begun in April 2021. These records corroborate information received in November 2021 pointing to the fact that [REDACTED].

7. [REDACTED]² [REDACTED]. [REDACTED].³ [REDACTED],⁴ except one.⁵ As such, it is highly improbable that [REDACTED].

8. [REDACTED].⁶ Further in the conversation, [REDACTED] states that: *"Ngaissona m'a appelé depuis la Haye pour m'informer."*⁷

9. [REDACTED].⁸ [REDACTED].

10. [REDACTED]⁹ [REDACTED].¹⁰ [REDACTED].¹¹

11. [REDACTED].¹² [REDACTED].¹³ [REDACTED].¹⁴ [REDACTED].¹⁵ [REDACTED].¹⁶

b. NGAISSONA's contact with [REDACTED] from the Detention Centre, whether direct or indirect, violates the Trial Chamber's contact restriction order

¹ [REDACTED].

² [REDACTED].

³ Annex A, p. 3: [REDACTED].

⁴ See all redactions applied to [REDACTED].

⁵ [REDACTED].

⁶ Annex A, p. 4-5 (emphasis added): [REDACTED].

⁷ Annex A, p. 6 (emphasis added): [REDACTED].

⁸ See all redactions applied to [REDACTED].

⁹ [REDACTED].

¹⁰ Annex A, p. 7-8 : [REDACTED].

¹¹ *Ibid.* Regarding [REDACTED] participation in a previous incident fitting the same pattern of conduct see Annex B, p. 40: CAR-OTP-2127-8340, at 8341; Annex B, p. 47: CAR-OTP-2134-0072, at 0076, paras. 27-28.

¹² Annex B, p. 8: CAR-OTP-2127-6435, at 6440, para. 32.

¹³ Annex B, p. 52: CAR-OTP-2135-4203, at 4203.

¹⁴ *Ibid.*

¹⁵ *Ibid.* [REDACTED].

¹⁶ See the redactions applied to [REDACTED].

12. Under regulation 101 of the Regulations of the Court, NGAISSONA is currently restricted to i) making privileged calls to his lawyers; and ii) two 90-minute non-privileged, actively monitored calls per week to family members.¹⁷

13. The necessity of the Prosecution's access to telephone logs, telephone attributions, and recordings of telephone conversations is clear. Indeed, it is express from the content of the [REDACTED] recently obtained, whether the improper communications were direct or indirect, mitigated either through [REDACTED].

c. The Request is formulated in the context of previous incidents fitting the same pattern of conduct

a. [REDACTED]

14. NGAISSONA's circumvention of the contact restrictions to [REDACTED] has happened before, whether directly or indirectly. The facts set out above [REDACTED] fit a demonstrated pattern of conduct, which the Prosecution presented to the Chamber in its prior requests for Detention Centre records. Those allegations in respect [REDACTED] are incorporated here by reference¹⁸ and briefly summarised below.

15. [REDACTED], soon after the 16 February 2021¹⁹ opening of the Main Case²⁰ [REDACTED]²¹ [REDACTED].²² [REDACTED].²³ [REDACTED].²⁴ [REDACTED].²⁵

¹⁷ ICC-01/14-01/18-1136-Red which maintained NGAISSONA's previous contact restrictions decided in ICC-01/14-01/18-484-Red2 para. 15, with the modification regarding the allotted time for telephone calls to 180 minutes in ICC-01/14-01/18-672-Conf.

¹⁸ ICC-01/14-01/18-972-Conf-Exp-Corr, paras. 8-10.

¹⁹ ICC Media Advisory, 8 February 2021, "Opening of the Yekatom and Ngaïssona trial postponed to 16 February 2021", <https://www.icc-cpi.int/news/opening-yekatom-and-ngaissona-trial-postponed-16-february-2021> [last accessed 29/07/2022].

²⁰ Annex B, p. 47: CAR-OTP-2134-0072, at 0076, para. 27.

²¹ Annex B, p. 47: CAR-OTP-2134-0072, para. 28, giving a better approximation of the date than earlier on in Annex B, p. 40: CAR-OTP-2127-8340, at 8341.

²² Annex B, p. 40: CAR-OTP-2127-8340, at 8341; *see also* Annex B, p. 41: CAR-OTP-2127-8525, at 8525.

²³ Annex B, p. 40: CAR-OTP-2127-8340, at 8341.

²⁴ Annex B, p. 37: CAR-OTP-2130-4051, at 4052.

²⁵ *Idem*, *see also* Annex B, p. 47-48: CAR-OTP-2134-0072, at 0076-0077, para. 30.

16. The Detention Centre call records obtained from the Registry on 1 June 2021 per the Chamber's order,²⁶ show [REDACTED],²⁷ [REDACTED]²⁸ [REDACTED] supports the fact of NGAISSONA's use of third parties in the unauthorised contacting of, [REDACTED].

b. [REDACTED]

17. The recently acquired [REDACTED] records also yielded a [REDACTED].²⁹ [REDACTED].³⁰

18. [REDACTED].³¹ [REDACTED]³² [REDACTED].³³ [REDACTED].³⁴

19. The above demonstrates is a very clear pattern of misconduct warranting and justifying the provision to the Prosecution of the relevant and limited telephone logs, telephone attributions, and recordings of telephone conversations in the custody of the Registry.³⁵

IV. SUBMISSIONS

20. There are sufficient grounds to believe that NGAISSONA has contacted unauthorised third parties, either directly or through another, and *inter alia* [REDACTED].

21. As the Chamber is aware, the aim of the Prosecution's inquiry under article 70 is to determine whether criminal attempts to interfere with, corruptly influence, or intimidate witnesses in the Main Case have occurred, are occurring, or are about to.

²⁶ Email Pre-Trial Chamber II, 1 June 2021, at 09:05, [REDACTED].

²⁷ See Annex B, p. 47: CAR-OTP-2134-0072, at 0076, para. 28 [REDACTED].

²⁸ See Annex C to this filing.

²⁹ Annex A, p. 9-13, *in particular* p. 12 : [REDACTED].

³⁰ Annex A, p. 12 : [REDACTED].

³¹ [REDACTED].

³² [REDACTED], *see* CAR-OTP-2130-3616, CAR-OTP-2130-3448, CAR-OTP-2098-0198, documents which can be provided if necessary.

³³ Annex A, p. 14-15, *in particular* p. 15 : [REDACTED].

³⁴ Annex A, p. 15 : [REDACTED].

³⁵ As previously held by Chamber ICC-01/14-01/18-1000-Conf-Exp, para. 11, referring to ICC-01/05-46.

22. This Chamber previously granted the Prosecution's request to access call logs and other records of calls made by NGAISSONA, [REDACTED].³⁶

23. As part of the investigation, the Prosecution seeks an order to obtain the following information – to the extent that it exists - from the ICC Detention Unit:

a. All call logs, telephone attribution information, recordings of telephone conversations, and any related internal translation the Registry might possess regarding [REDACTED].

b. All call logs, telephone attribution information, recordings of telephone conversations, and any related internal translation the Registry might possess regarding [REDACTED].

24. The Prosecution's request is supported by concrete evidence and founded on the legitimate interests of investigating and preventing potentially ongoing offences against the interests of justice. The information sought is also necessary pursuant to the Prosecution's obligations under article 68(1), to protect witnesses. Indeed, the Appeals Chamber has held that "to ensure, as a matter of the highest priority, that witnesses are appropriately protected [...] is, pursuant to article 68 of the Statute, a responsibility of the Court as a whole."³⁷

25. Further, article 54(1) obliges the Prosecutor to "establish the truth" and "[t]ake appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court". Granting the Request would better enable the Prosecution to seek to establish the facts and, ultimately, the truth.

26. Additionally, the request does not unduly infringe NGAISSONA's rights. The information sought is minimal and is narrowly drawn and proportional to both the state of the current investigation and to its legitimate objectives. NGAISSONA is aware that his calls from the ICC Detention Centre are registered into call logs and are

³⁶ ICC-01/14-01/18-1000-Conf-Exp; Email Pre-Trial Chamber II, 1 June 2021, at 09:05, [REDACTED].

³⁷ ICC-01/04-01/07-776, para.101.

recorded. Any expectation of privacy while in detention he might have regarding his calls is therefore highly attenuated³⁸ and, in any case, is overridden by the crime or fraud exception.³⁹

³⁸ Regulation 174(1) of the Regulations of the Registry (“RoR”) provides that “all telephone conversations of detained persons shall be passively monitored, other than those with counsel, assistants to counsel entitled to legal privilege, diplomatic or consular representatives, representatives of the independent inspecting authority, or representatives of the Registry, a Chamber or the Presidency.” The Prosecution’s understanding is that only calls made by a detainee to persons other than persons exempted by regulation 174(1) of the RoR are recorded, and are subject to monitoring.

³⁹See ICC-01/05-52-Red2, paras. 3-5 ; *see also Prosecutor v. Bangura et al.*, SCSL-2011-02-PT, Prosecutor’s Additional Statement of Anticipated Trial Issues and Request for Subpoena, 11 June 2012, paras. 5, 14, 15.

V. RELIEF SOUGHT

27. For all of the above reasons, the Prosecution respectfully requests that the Chamber issue an order directing the Registry promptly to provide the information sought from the ICC Detention Unit as specified in paragraph 23.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 25th day of February 2026
At The Hague, The Netherlands