

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-01/14-01/18
Date: 11 November 2019**

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 *THE PROSECUTOR V. ALFRED YEKATOM AND
PATRICE-EDOUARD NGAÏSSONA***

**Confidential, *Ex Parte*, only available to the Defence for Patrice-Edouard
Ngaïssona, the Registrar, and the Detention Section**

Decision on the Ngaïssona Defence Request to Obtain Transcripts

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

The Office of the Prosecutor

Counsel for Alfred Yekatom

Counsel for Patrice-Edouard Ngaïssona
Geert-Jan Alexander Knoops

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel
for the Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar
Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section
Paddy Craig

**Victims Participation
and Reparations Section**

Other

PRE-TRIAL CHAMBER II of the International Criminal Court issues this Decision on the Ngaïssona Defence Request to Obtain Transcripts.

I. Procedural History

1. On 30 October 2018, the Prosecutor submitted under seal, *ex parte*, an application for the issuance of warrants of arrest for Patrice-Edouard Ngaïssona and Alfred Yekatom.¹ The Prosecutor further requested, *inter alia*, that their contacts be restricted upon arrival at the ICC Detention Centre, submitting that there were reasonable grounds to believe that contact between Ngaïssona, Yekatom and their associates would prejudice the outcome of the investigation within the meaning of regulation 101(2)(b) of the Regulations of the Court (the 'Regulations').²
2. On 11 November 2018, the Chamber issued the 'Warrant of Arrest for Alfred Yekatom'.³
3. On 17 November 2018, Yekatom was surrendered to the Court by the authorities of the Central African Republic.⁴ On the same day, the Single Judge, acting on behalf of the Chamber,⁵ issued the 'Decision pursuant to Regulation 101 of the Regulations of the Court', thereby restricting Yekatom's communications upon his arrival at the ICC Detention Centre for a period of two weeks.⁶
4. On 7 December 2018, the Chamber issued the 'Warrant of Arrest for Patrice-Edouard Ngaïssona'.⁷
5. On 23 January 2019, Ngaïssona was surrendered to the Court by the authorities of the French Republic.⁸ On the same day, the Single Judge, acting on behalf of the

¹ ICC-01/14-01/18-2-US-Exp, together with 11 under seal, *ex parte* annexes.

² ICC-01/14-01/18-2-US-Exp, para. 357.

³ ICC-01/14-01/18-1-US-Exp. A public redacted version of the warrant of arrest is also available; see [ICC-01/14-01/18-1-Red](#).

⁴ Registry, Rapport du Greffe sur l'Arrestation et la Remise de M. Alfred Yekatom, ICC-01/14-01/18-17-US-Exp, paras 19-24.

⁵ Pre-Trial Chamber II, Decision designating a Single Judge, 9 November 2018, ICC-01/14-01/18-10.

⁶ ICC-01/14-01/18-11-Conf-Exp.

⁷ ICC-01/14-01/18-89-Conf-Exp. A public redacted version of the warrant of arrest is also available; see [ICC-01/14-01/18-89-Red](#).

⁸ Registry, Rapport du Greffe sur la Remise de Patrice-Edouard Ngaïssona, ICC-01/14-01/18-101-US-Exp, paras 5-14.

Chamber,⁹ issued the 'Decision pursuant to Regulation 101 of the Regulations of the Court', thereby restricting Ngaïssona's contacts and communications upon his arrival at the ICC Detention Centre.¹⁰

6. Between 29 January 2019 and 9 July 2019, the Chamber issued five decisions regarding the contact restrictions in place for Ngaïssona.¹¹

7. On 20 February 2019, the Chamber issued the 'Decision on the joinder of the cases against Alfred Yekatom and Patrice-Edouard Ngaïssona and other related matters', thereby joining the cases against Yekatom and Ngaïssona.¹²

8. On 15 August 2019 and 13 September 2019, respectively, the Registry submitted the 'Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II' (the 'Fifth Registry Report')¹³ and the 'Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II' (the 'Sixth Registry Report').¹⁴

9. On 18 September 2019, the Chamber issued its 'Decision Pursuant to Regulation 101 of the Regulations of the Court' (the '18 September 2019 Decision'), in which it, *inter alia*, ordered that the Registry conduct an expanded investigation into Ngaïssona's non-privileged phone calls and to report back to the Chamber in the Seventh Registry Report by 30 September 2019.¹⁵

⁹ Pre-Trial Chamber II, Decision designating a Single Judge, 6 December 2018, ICC-01/14-01/18-90.

¹⁰ ICC-01/14-01/18-98-Conf-Exp.

¹¹ 'Second Decision pursuant to Regulation 101 of the Regulations of the Court', ICC-01/14-01/18-106-Conf-Exp. A confidential *ex parte*, redacted version is also available; see ICC-01/14-01/18-106-Conf-Exp-Red; 'Third Decision pursuant to Regulation 101 of the Regulations of the Court', ICC-01/14-01/18-114-Conf-Exp. A confidential *ex parte*, redacted version is also available; see ICC-01/14-01/18-114-Conf-Exp-Red; Decision Pursuant to Regulation 101 of the Regulations of the Court, ICC-01/14-01/18-137-Conf-Exp; 'Decision Pursuant to Regulation 101 of the Regulations of the Court', ICC-01/14-01/18-176-Conf-Exp. A confidential redacted version is also available; see ICC-01/14-01/18-176-Conf-Red; Decision Pursuant to Regulation 101 of the Regulations of the Court, ICC-01/14-01/18-240-Conf-Exp.

¹² [ICC-01/14-01/18-87](#); [ICC-01/14-01/18-121](#).

¹³ ICC-01/14-01/18-276-Conf-Exp, together with a confidential, *ex parte* annex. A confidential *ex parte*, redacted version is also available; see ICC-01/14-01/18-276-Conf-Exp-Red.

¹⁴ ICC-01/14-01/18-337-Conf-Exp. A confidential redacted version is also available, see ICC-01/14-01/18-337-Conf-Exp-Red.

¹⁵ ICC-01/14-01/18-357-Conf-Exp. A confidential redacted version is also available, see ICC-01/14-01/18-362-Conf-Exp-Red.

10. On 27 September 2019, the Registry submitted its 'Request for an Extension for the submission of the Seventh Report' (the 'Registry's Request').¹⁶

11. On 2 October 2019, the Ngaissona Defence submitted the 'Consolidated Defence Observations Pursuant to the "Decision Pursuant to Regulation 101 of the Regulations of the Court"' (ICC-01/14-01/18-357-Conf-Exp) and the Registry's "Request for an Extension of time for the Submissions of the Seventh Report" (ICC-01/14-01/18-362-Conf-Exp, in which the Defence, *inter alia*, requested that the Registry be ordered to provide the full transcripts of the conversations referred to in the Fifth Registry Report and the Sixth Registry Report.¹⁷

12. On 3 October 2019, the Chamber issued its 'Decision on the Registry's Request for an Extension and the Contact Restrictions in place for Ngaissona', in which it *inter alia* (i) granted the Registry's Request for an extension until 4 November 2019 to submit the Seventh Registry Report and the results of its investigation into Ngaissona's non-privileged phone calls; and (ii) directed the Registry to provide the Ngaissona Defence with the complete transcripts of the conversations referred to in the Fifth Registry Report and the Sixth Registry Report by 4 November 2019 (the '3 October 2019 Decision').¹⁸

13. On 4 November 2019, the Registry filed the 'Seventh Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaissona Ordered by Pre-Trial Chamber II' (the 'Seventh Registry Report').¹⁹

14. On 8 November 2019, the Ngaissona Defence filed the 'Defence Request to Obtain Transcripts of Phone Calls Mentioned in the "Seventh Registry Report on the

¹⁶ ICC-01/14-01/18-362-Conf-Exp. A confidential redacted version is also available, see ICC-01/14-01/18-362-Conf-Exp-Red.

¹⁷ ICC-01/14-01/18-373-Conf-Exp.

¹⁸ Decision on the Registry's Request for an Extension and the Contact Restrictions in place for Ngaissona, 3 October 2019, ICC-01/14-01/18-374-Conf-Exp. A confidential redacted version is also available, see ICC-01/14-01/18-374-Conf-Exp-Red.

¹⁹ ICC-01/14-01/18-390-Conf-Exp. A confidential redacted version is also available, see ICC-01/14-01/18-390-Conf-Exp-Red.

Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II”, (ICC-01/14-01/18-390-Conf-Exp) (the ‘Request’).²⁰

II. Submissions

15. In the Request, the Defence notes that the Seventh Registry Report mentions new phone calls between Ngaïssona and members of his non-privileged contact list, and incorporates by reference its past submissions on the importance of being provided with the full transcripts of conversations, rather than excerpts and quotes thereof.

16. On 6 November 2019, the Defence contacted the Registry by email to request that the Registry provide the transcripts referenced in the Seventh Registry Report. The Registry declined, noting that it would await instructions from the Chamber regarding whether further transcripts could be disclosed.

17. The Defence submits that it will not be in a position to make full submissions on the Seventh Registry Report until it has the full transcripts referenced therein. Since the Defence must provide its observations on the Seventh Registry Report by 15 November 2019, it requests that the Registry be ordered to provide the transcripts referenced by 13 November 2019.

18. In line with the Chamber’s determination in the 3 October 2019 Decision, the Chamber finds it appropriate that the Defence have access to the full transcripts of calls referred to in the Seventh Registry Report. Noting the upcoming deadline for the Defence to present its observations, the Chamber directs the Registry to provide to the Defence the full transcripts of conversations referred to in the Seventh Registry Report by no later than 16:00 on 13 November 2019.

²⁰ ICC-01/14-01/18-390-Conf-Exp-Red, together with a confidential, *ex parte* annex, only available to the Ngaïssona Defence, the Registrar and the Detention Section.

FOR THESE REASONS, THE CHAMBER HEREBY

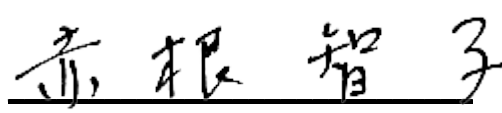
GRANTS the Request; and

DIRECTS the Registry to provide to the Ngaïssona Defence full transcripts of all conversations referred to in the Seventh Registry Report by no later than 16:00 on 13 November 2019.

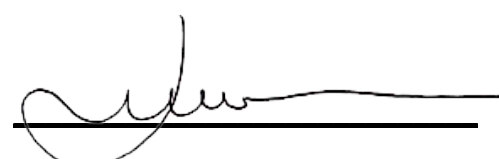
Done in both English and French, the English version being authoritative.



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Rosario Salvatore Aitala

Dated this Monday, 11 November 2019

At The Hague, The Netherlands