

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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

Date: 23 July 2020

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***

CONFIDENTIAL

with Confidential Annex

Registry Second Update on Detention Centre COVID-19 Measures

Source: Registry

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

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(Participation/Reparation)

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REGISTRY

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Mr Peter Lewis

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Detention Section

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**Victims Participation and Reparations
Section**

I. Introduction

1. The Registry presents the following submissions, pursuant to 24 *bis* of the Regulations of the Court ("RoC"), to update Trial Chamber V of the International Criminal Court ("Chamber" and "ICC", respectively) in the case of *The Prosecutor vs Alfred Yekatom and Patrice-Edouard Ngaissona* ("Defence") on the COVID-19 measures currently in place at the ICC Detention Centre ("Detention Centre" or "DC").

II. Classification

2. In accordance with regulation 23 *bis* (2) of the Regulations of the Court ("RoC"), the present report and its annex are classified as confidential, as they refer to confidential detention matters that are currently not public.

III. Submissions

3. As previously reported by the Registry,¹ 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 during the ongoing COVID-19 pandemic, by minimizing contacts to detained persons and thus their risk of exposure to the virus.
4. The Registry hereby wishes to inform the Chamber that on 14 July 2020, pursuant to regulation 96(2) of the RoC, the Presidency approved an extension of the DC COVID-19 measures until 17 August 2020 (inclusive). This approval was following a request from the Registrar, and upon the medical advice of the Medical Officer of the DC ("MO"), according to regulation 155(2) of the Regulations of the Registry.

¹ Registry, "Registry Update on COVID-19 Detention Centre Measures", ICC-01/14-01/18-578-Conf, 3 July 2020.

5. The Registry informed the detained persons and their respective counsels of the extension on 14 July 2020.²

Medical Officer Advice for Detention Centre COVID-19 Measures

6. For the information of the Chamber, the recent medical advice provided to the Registrar from the MO includes a risk assessment model for the easing of the recommended DC COVID-19 measures.
7. The MO bases his medical advice firstly from the premise that the health of the detained persons is the primary consideration, and that this is fundamental to the work of the ICC and the continuation of judicial activities.
8. Secondly, the DC measures are based upon knowledge of viral spread and recommended in order to safeguard the health of detained persons. These measures include hygienic recommendations, social distancing, and limiting the movement of persons and materials in and out of the facility. The measures are not an absolute safeguard, but they have been thus far working at the DC.
9. Thirdly, the medical advice notes that while Europe and the Netherlands have started a gradual easing of COVID-19 restrictions, the actual consequences of easing are, as of yet, simply unknown. It may be speculated that by easing the measures that have thus far protected us from catastrophic viral spread, we have entered into a precarious state in which easing is coupled with the risk of a "second wave" outbreak. What is known is that the virus is far from eradicated. As an example, as recently as 29 June 2020 the head of the World Health Organization stated, "We all want this to be over.

² Annex.

We all want to get on with our lives. But the hard reality is: this is not even close to being over.”³

10. Fourthly, the MO notes that easing is not without risk, and the COVID-19 pandemic continues to present a unique and very serious threat to the health and lives of the detained persons of the ICC Detention Centre.
11. Finally, the MO has highlighted that the COVID-19 measures should only be eased when remote alternatives are not possible, cannot be delayed, or cannot achieve the aim/purpose. The medical advice in relaxing measures at the DC is that there needs to be a clear benefit for an eased approach in comparison to its remote alternative or a further delay in the easement. In particular, physical contact is only recommended where it cannot be achieved remotely, for example *via* telephone or video link, and only at a minimal frequency to achieve a vital necessity.
12. The Registry respectfully submits the above for the information of the Chamber, and any further extensions or changes in the measures will be so communicated to the Chamber.



pp. Marc Dubuisson
Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 23 July 2020

At The Hague, The Netherlands

³ UN News, “COVID-19 pandemic ‘not even close to being over’ WHO chief warns”, 29 June 2020, available at <https://news.un.org/en/story/2020/06/1067342>.