

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 25 February 2021

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
NGAISSONA***

PUBLIC

**Public Redacted Version of the “Request for Leave to Reply to “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", ICC-01/14-
01/18-557-Conf-Exp, 17 June 2020”**

Source: Defence of Patrice-Edouard Ngaïssona

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

Court to:

The Office of the Prosecutor

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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**The Office of Public Counsel for the
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States' Representatives

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I. Introduction

1. Pursuant to regulation 24(5) of the Regulations of the Court ("RoC"), the Defence for Mr Patrice-Edouard Ngaïssona ("Defence") respectfully requests leave to reply to the "Registry Observations on Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits" ("Registry Observations") dated 17 June 2020.¹ The present request focuses on one issue raised in the Registry Observations, that the Defence could not reasonably have anticipated. A limited and focused reply on this discrete issue would assist Trial Chamber V ("Chamber") in the determination of the "Defence Request to Grant Privileged Status to Medical Expert and to Allow In-Person Visits" ("Defence Request").²

II. Confidentiality

2. Pursuant to regulation 23*bis*(2) of the RoC, the Defence files the present submissions as confidential, EX PARTE, only available to the Registry and the Ngaïssona Defence, as they concern information regarding Mr Ngaïssona's private life and detention-related matters, and also respond to documents of the same classification.

III. Submissions

3. The Defence requests leave to reply on the following issue:

whether [REDACTED] is a sufficient basis to extend restrictive measures which are highly prejudicial to the well-being of Mr

¹ ICC-01/14-01/18-557-Conf-Exp.

² ICC-01/14-01/18-544-Conf-Exp.

Ngaïssona and the preparation of his defence, when similar restrictive measures have already been lifted by the Host State's prison authorities, allowing lawyers and experts to enter the Host State's prisons.³

4. This issue constitutes a new issue that was raised in the Registry's Observations. The Defence could not have anticipated that the Registry would base its decision to maintain the restrictive measures at the detention centre on [REDACTED].⁴ Moreover, the Defence could not have anticipated that the Registry's decision whether to maintain the restrictive measures in place at the detention centre would depart from the Host State authorities' approach in this regard.
5. Allowing the Defence to reply to this specific issue would assist the Chamber⁵ in determining whether the Registry's position that a physical visit by [REDACTED] cannot be facilitated is arbitrary, and disproportionately affects Mr Ngaïssona's rights. A reply on this specific issue will ultimately assist the Chamber in deciding on the Defence Request.

RELIEF SOUGHT

³ [REDACTED]. [REDACTED]. See DJI new measures with respect to the Covid-19 pandemic at: <https://www.dji.nl> (retrieved 18 June 2020).

⁴ ICC-01/14-01/18-469-Conf-Exp, para 27.

⁵ *The Prosecutor v Bemba*, Decision on the "Defence Request for Leave to Reply to the 'Consolidated Response to the Defence Requests'", ICC-01/05-01/08-3049, 17 April 2014, para 5; *The Prosecutor v Bemba*, Decision on Mr Fidèle Babala Wandu's request for leave to reply to the "Prosecution opposition to the Babala Defence's appeal against his provisional detention", ICC-01/05-01/13-342, 14 April 2014, para 7; *The Prosecutor v Katanga*, Decision granting leave to reply, ICC-01/04-01/07-3382, 6 June 2013, para 8.

6. In light of the above, the Defence respectfully seeks leave to reply to the Registry Observations in relation to the discrete issue mentioned at paragraph 3 of the present submissions.

Respectfully submitted on 25 February 2021,



Mr Knoops, Lead Counsel for Patrice-Edouard Ngaïssona

At The Hague, the Netherlands.