

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 30 March 2021

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
NGAISSONA***

PUBLIC

Public Redacted Version of “Confidential Redacted Version of “Request for an Extension of Time for the submission of the Seventh Report””, filed on 27 September 2019, ICC-01/14-01/18-362-Conf-Red

Source: Registry

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

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I. Introduction

1. Following the “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Seventh Decision”)¹ issued by Pre-Trial Chamber II (“Chamber”) on 18 September 2019, in which the Registry is ordered to *inter alia* investigate to determine the identity of the third party from the call incident, to the extent possible, and to conduct an expanded investigation into all of Mr Ngaïssona’s non-privileged phone calls from the Fourth Registry Report to present, the Registry hereby requests the Chamber for an extension of time to submit its findings.

II. Procedural history

2. On 23 January 2019, the Single Judge of Pre-Trial Chamber II issued the “Decision pursuant to Regulation 101 of the Regulations of the Court” in which, *inter alia*, the Registry was directed to put in place several measures to restrict Mr Ngaïssona’s contacts.²
3. On 6 February 2019, the Chamber issued the “Third Decision pursuant to Regulation 101 of the Regulations of the Court”³ in which it ordered, *inter alia*, the Registry to prepare a report on the implementation of the restrictions on contact as ordered in the First Decision “setting out any relevant information relating to Ngaïssona’s behaviour or communications that may give rise to suspicion that he interferes with the Prosecutor’s investigation (in particular

¹ Pre-Trial Chamber II, “Decision pursuant to Regulation 101 of the Regulations of the Court”, 18 September 2019, ICC-01/14-01/18-357-Conf-Exp.

² Single Judge, “Decision pursuant to Regulation 101 of the Regulations of the Court”, 23 January 2019, ICC-01/14-01/18-98-Conf-Exp, paras. 7-11.

³ Pre-Trial Chamber II, “Third Decision pursuant to Regulation 101 of the Regulations of the Court”, 6 February 2019, ICC-01/14-01/18-114-Conf-Exp.

that he poses a threat to potential witnesses and victims) or that he engages in activities that may affect the outcome of the proceedings”.⁴

4. On 1 March 2019, the Chamber issued the “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Fourth Decision”) in which it decided, *inter alia*, that “Ngaïssona’s non-privileged telephone conversations and visits (apart from private family visits) shall henceforth be actively monitored *at random* [...] as frequently as possible”.⁵
5. On 15 April 2019, the Chamber issued its “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Fifth Decision”),⁶ deciding, *inter alia*, to extend the restrictive measures for the remainder of the pre-trial proceeding.⁷ The Decision also requested the Registry ensure that time required to set up a telephone call does not affect the time allotted to speak on the phone, and to submit a report on implementation of the restrictive measures every two months.⁸
6. On 9 July 2019, the Chamber issued its “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Sixth Decision”), ordering, *inter alia*, the Registry to substantially increase the frequency of random monitoring of telephone calls [REDACTED] in the Registry’s Fourth Report.⁹

⁴ *Ibid.*, para. 12.

⁵ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Fourth Decision”), 1 March 2019, ICC-01/14-01/18-137-Conf-Exp, paras. 19-20.

⁶ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Fifth Decision”), 15 April 2019, ICC-01/14-01/18-176-Conf-Red.

⁷ Fifth Decision, para. 32.

⁸ *Idem.*

⁹ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court”, 9 July 2019, ICC-01/14-01/18-240-Conf-Exp, para. 30.

7. On 15 August 2019, the Registry submitted its “Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II” (“Fifth Report”), reporting one violation.¹⁰
8. On 18 September 2019, the Chamber issued its “Decision Pursuant to regulation 101 of the Regulations of the Court” (“Seventh Decision”), deciding, *inter alia*, to suspend all of Mr Ngaïssona’s non-privileged telephone calls and non-family, non-privileged visits on an interim basis, to suspend all forms of communication between Mr Ngaïssona and the [REDACTED] with whom he has engaged in coded conversation on an interim basis, and ordered the active monitoring of Mr Ngaïssona’s family visits. The Decision also orders the Registry to investigate to determine the identity of the third party from the call incident, to conduct an expanded investigation into all of Mr Ngaïssona’s non-privileged phone calls from the Fourth Registry Report to present, and to report back in the Seventh Registry Report (due on 30 September 2019).¹¹

III. Classification

9. In accordance with regulation 23 *bis* (1) of the Regulations of the Court (“RoC”), the present report is classified as confidential *ex parte* only available to the Registrar, Detention Section, Victims and Witnesses Unit and Defence for Mr Ngaïssona, as it contains sensitive information regarding Mr Ngaïssona’s private life and detention-related matters. The Registry stands ready to reclassify the report, or provide a redacted version, if so ordered by the Chamber.

IV. Applicable law

¹⁰ Registry, “Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II” (“Fifth Report”), 15 August 2019, ICC-01/14-01/18-276-Conf-Exp.

¹¹ Pre-Trial Chamber II, “Decision Pursuant to Regulation 101 of the Regulations of the Court”, 18 September 2019, ICC-01/14-01/18-357-Conf-Exp, paras. 54-55.

10. For the purpose of the present submission, the Registry has considered regulations 99(1)(i) and 100 of the RoC, and regulations 173, 174, 175, 179, 180, 183 and 184 of the Regulations of the Registry (“RoR”).

V. Submissions

In relation to the unknown third person

11. As previously reported,¹² during a telephone conversation between Mr Ngaïssona and his [REDACTED], the [REDACTED] put [REDACTED] telephone on speaker phone and the interpreter heard the female voice of an unknown third person speaking to Mr Ngaïssona. The third person was not on Mr Ngaïssona’s non-privileged call list and was referred to as the [REDACTED]. The CCO considered that the content of that conversation was in obscure or coded speech and undertook a retrospective analysis of previous conversations with Mr Ngaïssona’s [REDACTED].

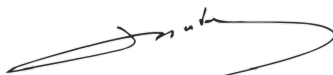
12. After informing the Chamber of the matter, the Chief Custody Officer (“CCO”) was instructed to investigate to determine the identity of the third party from the call incident and to conduct an expanded investigation into all of Mr Ngaïssona’s telephone calls from the Fourth Registry Report dated on 17 June 2019.

13. The CCO has thus far undertaken an analysis into six phone calls, on and around 29 July 2019, between Mr Ngaïssona and his [REDACTED]. As a result of the investigations, the Registry informs the Chamber that the identity of the third party identified in the conversations as [REDACTED] or the [REDACTED] is not yet known. However the CCO is making further enquiries to try to establish her identity.

¹² Fifth Report, paras. 15-17, and Sixth Report, paras. 11-16.

In relation to the expanded investigation

14. There are more conversations between Mr Ngaïssona and his [REDACTED] that are still to be translated and analysed. However, the CCO is working in close coordination with the Language Services Section of the Registry. In this regard the Registry notes that since the issuance of the Seventh Decision, the [REDACTED] Sango interpreters available have been fully engaged with the Confirmation of Charges hearing. Considering that the [REDACTED] interpreters will need to review approximately 22 hours of telephone conversations, and that they will only be available to start working on all the relevant audio recordings of Mr Ngaïssona's telephone conversations on Monday 30 September 2019, the Registry is unfortunately unable to meet the deadline as established by the Chamber for the submission of the Seventh Registry Report. Considering the above, and after an assessment of the time that is required to complete this exercise, the Registry respectfully requests an extension of the said deadline to 4 November 2019.



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

Dated this 30 March 2021

At The Hague, the Netherlands