

**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  
NGAÏSSONA**

**PUBLIC**

**Public Redacted Version of “Confidential Redacted Version of “Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Pre-Trial Chamber II”, 13 September 2019, ICC-01/14-01/18-337-Conf-Exp”, filed on 13 September 2019, ICC-01/14-01/18-337-Conf-Red**

**Source:** Registry

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

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**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

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

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

**Amicus Curiae**

**REGISTRY**

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**Detention Section**

Mr Harry Tjonk

**Victims Participation and Reparations  
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## I. Introduction

1. Following the Registry's "Fifth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by the Pre-Trial Chamber II" ("Fifth Report"), submitted on 15 August 2019, in which the Registry reported one violation of the restrictions of contact placed on Patrice-Édouard Ngaïssona ("Mr Ngaïssona") by Pre-Trial Chamber II ("Chamber"), and informed the Chamber that it would undertake further investigations into that violation,<sup>1</sup> the Registry hereby submits its report on the results of that further investigation.

## 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.<sup>2</sup>
3. On 6 February 2019, the Chamber issued the "Third Decision pursuant to Regulation 101 of the Regulations of the Court"<sup>3</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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”.<sup>4</sup>

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”.<sup>5</sup>
5. On 15 April 2019, the Chamber issued its “Decision Pursuant to Regulation 101 of the Regulations of the Court” (“Fifth Decision”),<sup>6</sup> deciding, *inter alia*, to extend the restrictive measures for the remainder of the pre-trial proceeding.<sup>7</sup> 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.<sup>8</sup>
6. On 9 July 2019, the Chamber issued its “Decision Pursuant to Regulation 101 of the Regulations of the Court”, ordering, *inter alia*, the Registry to substantially increase the frequency of random monitoring of telephone calls [REDACTED] in the Registry’s Fourth Report.<sup>9</sup>

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<sup>4</sup> *Ibid.*, para. 12.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> Fifth Decision, para. 32.

<sup>8</sup> *Ibem.*

<sup>9</sup> 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.<sup>10</sup>

### III. Classification

8. 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 and Victims and Witnesses Unit, 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

9. 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

10. As previously reported,<sup>11</sup> 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 [REDACTED] then switched the phone call off speaker phone and continued [REDACTED]

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<sup>10</sup> 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.

<sup>11</sup> Fifth Report, paras. 15-17.

conversation. The third person was not on Mr Ngaïssona's non-privileged call list and was referred to as the [REDACTED].

11. The Chief Custody Officer ("CCO") considered that the content of that conversation was in obscure or coded speech and thus temporarily suspended Mr Ngaïssona's [REDACTED] from his non-privileged telephone contact list.<sup>12</sup> The CCO then informed the Chamber that he was undertaking a retrospective analysis of previous conversations with Mr Ngaïssona's [REDACTED].

12. The CCO has thus far undertaken an analysis into seven phone calls, on and around [REDACTED], between Mr Ngaïssona and his [REDACTED]. As a result of the investigations, the Registry informs the Chamber as follows.

13. Conversations about the [REDACTED].

a. [REDACTED].

b. [REDACTED].

c. [REDACTED].

d. [REDACTED].

e. [REDACTED].

14. [REDACTED]. The conversation is unclear. While it does not give protected or restricted information, this dialogue indicates that Mr Ngaïssona is attempting to breach the Chamber's restrictions on contacts.

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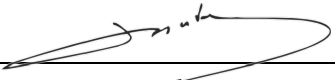
<sup>12</sup> *Ibid.*, para. 16.

15. The CCO informs the Chamber that several conversations involve discussions on [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].
16. There are more conversations between Mr Ngaïssona and this [REDACTED] that are still to be translated and analysed, however the CCO considered to have sufficient enough information to report to the Chamber on the cumulative nature of the conversations. Taken individually, the conversations may not have caused suspicion. However, when now cumulated as a whole, the CCO is concerned that the pattern may suggest a disregard for the Chamber's orders and the use of obscure or coded speech that raises a concern. The CCO is also concerned by the number of conversations regarding [REDACTED]. Therefore, the above summaries of the conversations are respectfully submitted to the Chamber for consideration.
17. Pursuant to the Fourth Decision, Mr Ngaïssona's non-privileged visits shall be actively monitored at random as frequently as possible, with the exception of family visits from his wife and children only.<sup>13</sup> Accordingly, the latter are supervised in accordance with regulation 183 of the RoR. The Registry informs the Chamber that it has received a visit request from Mr Ngaïssona's [REDACTED], the same [REDACTED] who has been suspended from his telephone contact list. As a result of that suspension, and considering the above summary of conversations, the CCO has also denied the visit request and will inform Mr Ngaïssona accordingly.
18. The CCO notes that, as Mr Ngaïssona's wife and children are not actively monitored during their visits, it is not possible to ensure that that Mr Ngaïssona is complying with the Chamber's monitoring restrictions during these visits.

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<sup>13</sup> Fourth Decision, paras. 19-20.

19. Should the Chamber decide to increase monitoring of Mr Ngaïssona's visits or telephone calls, the CCO recommends that the visits be time limited, according to the resources of the Detention Centre and the Registry.



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

Dated this 30 March 2021

At The Hague, the Netherlands