

# **ANNEX 24**

## **PUBLIC**

**From:** Trial Chamber V Communications  
**Sent:** 13 August 2021 08:57  
**To:** [REDACTED] Trial Chamber V Communications; [REDACTED]  
**Cc:** D30 Ngaïssona Defence Team; Office of the Director DJSS; [REDACTED] Chamber Decisions Communication  
**Subject:** RE: Urgent Ngaïssona Defence Request to temporarily depart from the current restriction regime under regulation 101 of the RoC

Dear Counsel, dear Colleagues from the Registry,

The Single Judges takes note of the below request by the Ngaïssona Defence (the 'Defence') for an 'exceptional departure from Mr Ngaïssona's restrictions on contacts and communications in detention' by replacing the active monitoring system by passive monitoring 'solely for the time of [REDACTED] and Mr Ngaïssona's [REDACTED] [...] visits to the Detention Centre from [REDACTED]' (the 'Request').

Having considered the circumstances set out in the Request as well as in the attached email exchange between the Defence and the Detention Centre and in the 2 July 2021 Detention Centre memo on the Resumption of In-Person Visits at the ICC Detention Centre, the Single Judge finds that no modification of the restrictions regime applicable to Mr Ngaïssona is warranted.

Rather, noting the timing of the Defence's email request to the Detention Centre as well as the constraints within the Detention Centre as a result of the sanitary requirements and the judicial recess, the Single Judge is of the view that the solutions proposed by the Detention Centre in order to accommodate a number of visits by Mr Ngaïssona's [REDACTED] and [REDACTED] are reasonable in the circumstances.

He therefore directs the Defence and the Registry to further coordinate, in accordance with the restrictions regime currently applicable to Mr Ngaïssona, in order to allow for a maximum time of visits by Mr Ngaïssona's [REDACTED] and [REDACTED] during their stay in [REDACTED] while minimising the impact on Mr Ngaïssona's right to family calls.

Kind regards, TCV

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**From:** [REDACTED]  
**Sent:** 12 August 2021 19:54  
**To:** Trial Chamber V Communications [REDACTED]  
**Cc:** D30 Ngaïssona Defence Team [REDACTED] Office of the Director DJSS [REDACTED]  
**Subject:** Urgent Ngaïssona Defence Request to temporarily depart from the current restriction regime under regulation 101 of the RoC  
**Importance:** High

Dear Trial Chamber V,

*First*, the Defence for Mr Ngaïssona apologise for contacting the judges during the judicial recess. However, urgent matters have arisen warranting the Chamber's attention.

The Defence for Mr Ngaïssona ("the Defence") respectfully requests an exceptional departure from Mr Ngaïssona's restrictions on contacts and communications in detention ("Restriction Regime") under Regulation 101 of the Regulations of the Court in order to allow the visit of his [REDACTED] and [REDACTED] to take place. The Defence requests a limited change in the Restriction Regime, namely to switch from an active monitoring of the visits to a passive monitoring. Such change is requested to be applied solely for the time of [REDACTED] and Mr Ngaïssona's [REDACTED], visits to the Detention Centre from [REDACTED]

The present request is submitted ex-parte as it concerns Mr Ngaïssona's detention conditions and private family matters.

On 2 July 2021, the CCO informed the Defence through the memo [REDACTED] of the Resumption of In-Person Visits at the ICC Detention Centre as of 15 July 2021, which includes the resumption of family visits. [REDACTED] 7, the Defence sent an email to the Detention Centre to book a visit for [REDACTED] and Mr Ngaïssona's [REDACTED], to take place on [REDACTED]. The Detention Centre answered on 11 August 2021 at 16:26 that "unfortunately there are limited resources to accommodate these extra monitoring activities at such short notice" and proposed to schedule the visits on [REDACTED] (and not half day as mentioned in the CCO memo on p. 2) instead of Mr Ngaïssona's weekly monitored calls. In other words, Mr Ngaïssona would need to choose between contacting his family members or receiving the short visits of his [REDACTED], whom he has not seen for over one year and a half. While the Defence appreciates the efforts of the Detention Centre to find alternative solutions, such solution is unacceptable, as it would only allow a very limited contact with Mr Ngaïssona's [REDACTED] while at the same time depriving him of his weekly phone calls with the rest of his family.

The Detention Centre also alternatively proposed to reschedule the visits. However, the timing of such visits needs to take into account the fact that Mr Ngaïssona is on a regular basis in the courtroom since Trial started and cannot receive visits during that periods of time. It also needs to take into account the fact that [REDACTED] and therefore cannot organise such visits at any time of the year.

The Detention Centre explained that the Registry has only limited [REDACTED] resources available at the Court, especially since some staff is also on leave during the court recess (see email of the Detention Centre on 12/08/2021 at 15:02). As it appears that what prevents the visits to take place is the active monitoring, the Defence requests that such active monitoring be therefore replaced by a passive monitoring for the time being of the visits with [REDACTED] and [REDACTED] starting on [REDACTED] if needed. Such solution is proportionate as it takes into account the objective of the Restriction Regime while at the same time safeguarding Mr Ngaïssona's right to family life.

The Defence's request is made on an exceptional basis and as an ultimate remedy to an untenable situation. The COVID-19 Pandemic impacted on the detention conditions of Mr Ngaïssona at an unprecedented level and prevented him to have in-person visits with his family for 16 months. [REDACTED]. They have been waiting for the possibility to see Mr Ngaïssona for an excessively long time.

In light of these exceptional circumstances, the Defence therefore respectfully requests an exceptional departure from Mr Ngaïssona's restrictions on contacts and communications in detention.

For ease of reference the Defence attaches to the present request the email exchange with the Detention Centre (Attachment 1), and the CCO memo (Attachment 2).

Respectfully yours,

[REDACTED]  
Case Manager – Ngaïssona Defence

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