

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/14-01/18
Date: 26 September 2022

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 "Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Trial Chamber V", 1 August 2022, ICC-01/14-01/18-1536-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. Pursuant to the “Decision Recalling the Reporting Procedure for the Review of Restrictions”¹ issued by Trial Chamber V of the International Criminal Court (“Chamber” and “ICC”, respectively) on 1 June 2020, in which the Registry is ordered to, *inter alia*, “inform the Chamber of any violation of the applicable restrictions or other significant developments immediately”,² the Registry hereby submits its report on the monitoring of Mr Ngaïssona’s non-privileged telephone calls, visits and written correspondence since 8 March 2022. On this occasion the Registry has potential concerns to report.
2. Pursuant to an email instruction issued by the Chamber on 22 July 2022 (“Instruction”),³ the Registry is instructed “to gather further information on this and any other potential breach and file a report on the record for the Chamber and the participants as soon as possible” on a matter of concern raised by the Registry by email.

II. Procedural history

3. Pursuant to a series of decisions,⁴ the Chamber has ordered the following restrictions on Mr Ngaïssona’s contacts: 1) the limitation of non-privileged phone calls and visits to family members whose identity and contact details have been duly verified beforehand by the Chief Custody Officer (“CCO”), and

¹ Trial Chamber V, “Decision Recalling the Reporting Procedure for the Review of Restrictions” (“1 June 2020 Decision”), 1 June 2020, ICC-01/14-01/18-540.

² *Ibid.*, para. 13.

³ Email from the Trial Chamber V to the Registry on 22 July 2022 at 16:51.

⁴ Trial Chamber V, “Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“17 April 2020 Decision”), 17 April 2020, ICC-01/14-01/18-484-Red2, paras. 15, 25; Trial Chamber V, “Second Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“8 July 2020 Decision”), 8 July 2020, ICC-01/14-01/18-582, paras. 12-13, 15; Trial Chamber V, “Third Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“5 October 2020 Decision”), 5 October 2020, ICC-01/14-01/18-672-Conf, paras. 16, 20-22; Trial Chamber V, “Fourth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“23 April 2021 Decision”), 23 April 2021, ICC-01/14-01/18-965-Red, paras. 17, 21; and Trial Chamber V, “Fifth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“12 October 2021 Decision”), 12 October 2021, ICC-01/14-01/18-1136-Conf, para. 8.

who may request the support of the Victims and Witnesses Unit (“VWU”); 2) the active monitoring of non-privileged phone calls with authorized family members for 180 minutes distributed in two 90 minute-periods, two times a week; 3) the active monitoring of visits with authorized family members; 4) the limitation of written correspondence to individuals on his non-privileged contacts list; 5) the limitation of non-privileged communication to the languages of French and Sango; and 6) the prohibition of obscure or coded language and discussions related to his case during non-privileged communications. The Chamber also ordered the Registry to submit reports on the implementation of the restrictions on contact every six months.⁵

III. Classification

4. 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 Defence for Mr Ngaïssona and the Registry, as it refers to decisions with the same level of classification and contains third-party and personal information pertaining to Mr Ngaïssona’s private life. A confidential redacted version of the present report will be filed simultaneously.

IV. Applicable law

5. For the purpose of the present submission, the Registry has considered regulations 99(1)(i), and 100 of the RoC, and regulations 168, 169, 170, 173, 174, 175, 177, 179, 180, 183 and 184 of the Regulations of the Registry (“RoR”).

V. Submissions

In relation to the active monitoring order of non-privileged telephone calls and visits

6. Pursuant to the Chamber’s decisions on restrictions on contacts, Mr Ngaïssona is authorized to make telephone phone calls for a total of 180 minutes per week

⁵ Trial Chamber V, 5 October 2020 Decision, para. 25.

to verified family members⁶ and to receive family visits with verified family members.⁷

7. In implementing the Chamber's 12 October 2021 Decision,⁸ the CCO has actively monitored the non-privileged telephone calls and visits of Mr Ngaïssona ("non-privileged conversations"). The Registry hereby reports to the Chamber potential concerns on the implementation of the Chamber's restrictions on contacts of Mr Ngaïssona.⁹
8. On 13 June 2022, [REDACTED], Mr Ngaïssona mentioned the following :
"[REDACTED]".
9. On 15 June 2022, [REDACTED], Mr Ngaïssona mentioned the following :
"[REDACTED]."
10. On 6 July 2022, [REDACTED], Mr Ngaïssona mentioned the following :
"[REDACTED]."
11. On 18 July 2022, [REDACTED], Mr Ngaïssona mentioned the following :
"[REDACTED]."
12. On 20 July 2022, [REDACTED], Mr Ngaïssona said "[REDACTED]."
13. On 20 July 2022, [REDACTED], Mr Ngaïssona said "[REDACTED]."
14. The CCO notes that the above mentioned non-privileged conversations make references to "[REDACTED]" videos, other videos and audios of [REDACTED], as well as [REDACTED] to Mr Ngaïssona on [REDACTED], documents and photos of [REDACTED] ("Content").¹⁰

⁶ *Ibid.*, para. 21.

⁷ Trial Chamber V, 17 April 2020 Decision, para. 15.

⁸ Trial Chamber V, 12 October 2021 Decision, para. 8.

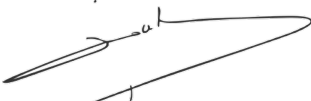
⁹ Trial Chamber V, 17 April 2020 Decision, para. 15.

¹⁰ The Registry presumes that [REDACTED].

15. The CCO does not have access to this Content itself, however it appears through the monitoring of the above non-privileged conversations that Mr Ngaïssona [REDACTED]. Access to this Content appears to show that Mr Ngaïssona potentially has access to content [REDACTED], which, if considered non-privileged communications, have not been monitored to ensure compliance with the Chamber's restrictions on contacts, or imported as written correspondence or via the import procedure as per the Regulations of the Registry.¹¹
16. The Registry acknowledges that it does not have all information available to assess whether or not this Content is case related, [REDACTED]. As a matter of caution, the Registry has not provided the transcripts of the excerpts of the above mentioned conversations as an annex to the current submission, however the Registry stands available to provide them to the Chamber should the Chamber deem it appropriate.
17. [REDACTED].

In relation to non-privileged written correspondence

18. Any written correspondence or packages that are sent or received pursuant to regulations 168, 169 and 170 of the RoR are closely monitored in accordance with the relevant regulations and Chamber's decision.¹² No incidents have been reported in relation to written correspondence.



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

Dated this 26 September 2022

At The Hague, the Netherlands

¹¹ Regulations 168, 169 and 170 of the Regulations of the Registry.

¹² Trial Chamber V, 17 April 2020 Decision, para. 15.