

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/14-01/18
Date: 7 November 2023

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 "Eighth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Trial Chamber V", 1 August 2023, ICC-01/14-01/18-2012-Conf-Red

Source: Registry

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

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(Participation/Reparation)**

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I. Introduction

1. Following the “Third Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention”¹ issued by Trial Chamber V (“Chamber”) on 5 October 2020, in which the Registry is ordered to report on the implementation of the restrictions on contact for Mr Patrice-Edouard Ngaïssona (“Mr Ngaïssona”) every six months, the Registry hereby submits its report on the monitoring of Mr Ngaïssona’s non-privileged telephone calls, visits and written correspondence since 1 February 2023. The Registry has potential concerns to report.

II. Procedural history

2. Pursuant to a series of decisions,² the Chamber has ordered the following restrictions on Mr Ngaïssona’s contacts (“restrictions on 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”), who may request the support of the Victims and Witnesses Unit; 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

¹ 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, para. 25.

² 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, ICC-01/14-01/18-582, paras. 12-13, 15; Trial Chamber V, 5 October 2020 Decision, paras. 16, 20-22; Trial Chamber V, “Fourth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention”, 23 April 2021, ICC-01/14-01/18-965-Red, paras. 17, 21; Trial Chamber V, “Fifth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention”, 12 October 2021, ICC-01/14-01/18-1136-Conf, para. 8;² Trial Chamber V, “Sixth Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention and Directions regarding the Use of the Privileged Network” (“19 September 2022 Decision”), 19 September 2022, ICC-01/14-01/18-1575-Conf, para. 27; and Trial Chamber V, “Seventh Decision on Mr Ngaïssona’s Restrictions on Contacts and Communications in Detention” (“10 May 2023 Decision”), 10 May 2023, ICC-01/14-01/18-1863-Conf-Red.

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.³

3. On 10 May 2023, the Chamber lifted the active monitoring order for the visits of Mr Ngaïssona's [REDACTED] and decided that [REDACTED] of Mr Ngaïssona be [REDACTED] on his non-privileged list of contacts under the active monitoring regime of phone calls and visits.⁴
4. On 11 July 2023, following the "Sixth Decision on Mr Ngaïssona's Restrictions on Contacts and Communications in Detention and Directions regarding the Use of the Privileged Network"⁵ issued by the Chamber on 19 September 2022, in which the Registry is instructed to [REDACTED], the Registry notified the Chamber on a potential concern regarding Mr Ngaïssona's restrictions on contacts.⁶ The Registry indicated that it would include the potential concerns in its next report on the implementation of the restrictions on contacts for Mr Ngaïssona due on 1 August 2023, unless otherwise instructed by the Chamber.⁷

III. Classification

5. In accordance with regulation 23 *bis*(1) of the Regulations of the Court ("RoC"), the present report is classified as confidential, as it refers to Chamber decisions of the same level of confidentiality 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

³ Trial Chamber V, 5 October 2020 Decision, para. 25.

⁴ Trial Chamber V, 10 May 2023 Decision, paras. 8-9.

⁵ Registry, 19 September 2022 Decision", para. 28.

⁶ Email from the Registry to the Trial Chamber V on 11 July 2023 at 17:03.

⁷ Email from the Registry to the Trial Chamber V on 11 July 2023 at 17:03.

6. 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

7. In implementing the Chamber’s restrictions on contacts, the CCO has actively monitored the non-privileged telephone calls and visits of Mr Ngaïssona. The Registry hereby reports to the Chamber potential concerns on the implementation of the Chamber’s restrictions on contacts of Mr Ngaïssona,⁸ which are similar to the concerns reported in the Registry’s “Sixth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Trial Chamber V” of 1 August 2022.⁹
8. On [REDACTED], during a non-privileged call with [REDACTED], Mr Ngaïssona mentioned the following: “[REDACTED]”.¹⁰
9. On [REDACTED], during a non-privileged call with [REDACTED], Mr Ngaïssona mentioned the following: “[REDACTED]”.¹¹
10. The CCO observes that the above mentioned non-privileged conversations make references to “[REDACTED]” and “[REDACTED]” [REDACTED] (“Content”). The CCO does not have access to this Content itself however if it is non-privileged Content, the CCO confirms that the Content has not been monitored to ensure compliance

⁸ Trial Chamber V, 17 April 2020 Decision, para. 15 and Trial Chamber V, 19 September 2022 Decision, para. 28.

⁹ Registry, “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-Exp, paras. 7-17.

¹⁰ Annex I, p. 1, lines 4, 6, 8

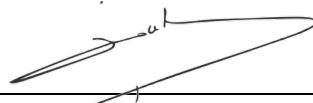
¹¹ Annex II, p. 1, line 12.

with the Chamber's restrictions on contacts, or imported as written correspondence or via the import procedure as per the RoR.¹²

11. This Content appears to be viewed by Mr Ngaïssona on his computer at the ICC Detention Centre. As previously explained by the Registry,¹³ this computer is only strictly used for accessing the Privileged Defence Network. Its use falls under Regulation 97(1) of the Regulations of the Court and is regulated by the Registry Policy on Computer Use and Case Related Materials,¹⁴ which restricts the use of the network to enable detained persons to view case related materials and evidence uploaded by their defence team. The Registry also confirms that Mr Ngaïssona does not have access to the internet through his computer at the ICC Detention Centre.¹⁵

In relation to written correspondence

12. 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.¹⁶ The Registry does not have any incidents to report in relation to written correspondence.



Marc Dubuisson, Director Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 7 November 2023

At The Hague, the Netherlands

¹² Regulations 168, 169 and 170 of the Regulations of the Registry.

¹³ Registry, "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-Exp, para. 17.

¹⁴ Registry, "Policy on case related computer use and printing at the ICC Detention Centre".

¹⁵ Registry, "Registry Report on Computer Access as Ordered by Trial Chamber V", 26 September 2022, ICC-01/14-01/18-1583-Conf-Exp, para. 9.

¹⁶ Trial Chamber V, 17 April 2020 Decision, para. 15.