

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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 “Ninth Registry Report on the Implementation of the
Restrictions on Contacts of Mr Ngaißona Ordered by Trial Chamber V”, 13
October 2023, ICC-01/14-01/18-2143-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. In accordance with Trial Chamber V (“Chamber”)’s “Decision Recalling the Reporting Procedure for the Review of Restrictions”¹, whereby 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 brought to the Chamber’s attention, by way of email dated 11 October 2023, an incident of potential concern during Mr Ngaïssona’s non-privileged call with a non-privileged telephone contact.³
2. Pursuant to the Chamber’s instruction issued by way of email on 12 October 2023,⁴ the Registry hereby submits its report on the said incident for the Chamber’s consideration.

II. Procedural history

3. Pursuant to a series of decisions,⁵ the Chamber has ordered the following restrictions on Mr Ngaïssona’s contacts (“restrictions on contacts”): 1) the

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 Registry to Trial Chamber on 11 October 2023 at 10:15.

⁴ Email from the Trial Chamber V to the Registry on 12 October 2023 at 9:39. The Chamber “instructs the Registry to file a report on the record by Friday, 13 October 2023 at 16:00, with redactions as necessary, and instructs the participants to file observations, if any, by Wednesday 18 October 2023, at 16:00”.

⁵ 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, “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, 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; ⁵ 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, ICC-01/14-01/18-1863-Conf-Red.

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 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 further ordered the Registry to submit reports on the implementation of the restrictions on contact every six months.⁶

4. On 19 September 2022, the Chamber noted, *inter alia*, that “[REDACTED]” and “[REDACTED]”.⁷ The Chamber further instructed the Registry “[REDACTED]”.⁸

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’s decisions with 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.

⁶ Trial Chamber V, 5 October 2020 Decision, para. 25.

⁷ Trial Chamber V, 19 September 2022 Decision, para. 26.

⁸ *Ibid.*, para. 28.

IV. Applicable law

6. For the purpose of the present submission, the Registry has considered regulation 99(1)(i) of the RoC, and regulations 173, 174, and 175 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 Acting CCO has actively monitored the non-privileged telephone calls of Mr Ngaïssona. In this context, the Registry wishes to report an incident of potential concern, for the Chamber’s consideration and determination.⁹

8. On [REDACTED], during a non-privileged call with [REDACTED], a non-privileged telephone contact, Mr Ngaïssona stated the following: “[REDACTED]”.¹⁰ [REDACTED] responded the following: “[REDACTED]” and “[REDACTED]”.¹¹

9. Pursuant to Mr Ngaïssona’s restrictions on contacts as established by the Chamber, Mr Ngaïssona is not allowed to use obscure or coded language and discussions related to his case during non-privileged communications.¹² The Acting CCO considers that the content of the above-quoted conversation appears to be in obscure or coded language since the message is not specific enough to be understood or clearly identified.

⁹ Trial Chamber V, 17 April 2020 Decision, para. 15 and Trial Chamber V, 19 September 2022 Decision, para. 28.

¹⁰ Annex, lines 9.

¹¹ Annex, lines 10 and 14.

¹² Trial Chamber V, 17 April 2020 Decision, paras. 15 and 25.

10. Furthermore, while the CCO is not in a position to determine the identity of the person referred to as “[REDACTED]”, he notes for the Chamber’s attention, that the name of the [REDACTED] is Mr [REDACTED].¹³



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

Dated this 7 November 2023

At The Hague, the Netherlands

¹³ Trial Chamber V, 19 September 2022 Decision, para. 26.