

**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 "Defence submission of additional information on the  
"Ninth Registry Report on the Implementation of the Restrictions on Contact of  
Mr Ngaïssona Ordered by Trial Chamber V"", (ICC-01/14-01/18-2166-Conf), filed  
26 October 2023**

**Source:** Defence of Patrice-Edouard Ngaïssona

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

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**REGISTRY**

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**Counsel Support Section**

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**Victims Participation and Reparations  
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## I. INTRODUCTION

1. On 24 October 2023, Trial Chamber V ('the Chamber') ordered the Defence for Patrice-Edouard Ngaïssona ('the Defence') to provide additional information regarding the "Defence Observations on the "Ninth Registry Report on the Implementation of the Restrictions on Contact of Mr Ngaïssona Ordered by Trial Chamber V" ('Defence Observations on the Ninth Registry Report').<sup>1</sup> Specifically, the Chamber instructed the Defence "to clarify through formal filing, by Thursday 26 October 2023, COB, the way in which the accused is in contact with [REDACTED] and the extent thereof, including with regard to the events referenced in the Ninth Registry Report, ICC-01/14-01/18-2143-Conf-Exp".<sup>2</sup> Pursuant to the Chamber's instruction, the Defence hereby provides the additional information. It wishes to clarify that [REDACTED] communicates with Mr Ngaïssona in the same way as all the nonprivileged members of the Defence do, namely under the supervision and presence of a privileged member of the Defence.

## II. CONFIDENTIALITY

2. The present response is filed on a confidential pursuant to Regulation 23(1)*bis* of the Regulations of the Court ('RoC') since it concerns a Defence filing with the same classification. A public redacted version shall be filed in due course.

## III. SUBMISSIONS

3. Pursuant to Article 67(1)(b) of the Rome Statute and Regulation 97 of the Regulations of the Court ('RoC'), Mr Ngaïssona has the right to communicate fully and in confidence with privileged members of his Defence team, namely with counsel and legal assistants. In the aim of providing Mr Ngaïssona with an effective defence, Counsel allows nonprivileged team members to communicate

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<sup>1</sup> Email from Trial Chamber V to the Defence Re: "Order concerning Filing ICC-01/14-01/18-2155-Conf-Red.

<sup>2</sup> Ibid.

with Mr Ngaïssona, especially when certain topics directly concern the scope of work of a nonprivileged team member. Such communication is always done under the supervision and in the presence of a privileged team member. As the Defence [REDACTED], [REDACTED] plays an important role in the Defence's representation of Mr Ngaïssona, and thus communicates with Mr Ngaïssona. This communication, like for other nonprivileged members, is always under the supervision and presence of a privileged defence team member.

4. While the primary purpose of privileged communications is to provide a confidential space to discuss case related matters, the legal representation of Mr Ngaïssona also implies ensuring his well-being to the extent that is possible given his incarceration. Indeed, the Regulations of the Registry recognize the role of counsel in safeguarding Mr Ngaïssona's rights in detention, which include his right to private and family life,<sup>3</sup> by giving detained persons the right to have counsel assist them with respect to any complaint regarding their detention.<sup>4</sup> This Regulation of the Registry implies that part of counsels' duties towards a suspect or an accused is to inquire about their life in detention, which includes inquiring about family. It also is expected that a detainee will bring to counsel's attention any issue they have regarding their family and request assistance. This is exactly what transpired with respect to the events described in the Ninth Registry Report.
5. As the Defence submitted in its Defence Observations on the Ninth Registry Report,<sup>5</sup> the message transmitted by [REDACTED] concerned a private family matter related to [REDACTED] in Mr Ngaïssona's [REDACTED]. While Mr Ngaïssona was on the phone with [REDACTED] in the presence and supervision

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<sup>3</sup> Regulation 99(1)(i) of the Regulations of the Court; Regulation 179(1) of the Regulations of the Registry.

<sup>4</sup> Regulation 217(3) of the Regulations of the Registry.

<sup>5</sup> ICC-01/14-01/18-2155-Conf-Exp.

of a Defence team member entitled to privilege, Mr Ngaïssona asked for assistance from [REDACTED] with respect to this [REDACTED].<sup>6</sup> [REDACTED] informed the Defence that he contacted the individual cited in the Ninth Registry Report and Annex<sup>7</sup> only once with respect to the matter detailed in the Defence's Observations on the Ninth Registry Report.<sup>8</sup>

#### IV. CONCLUSION

6. The Defence submits it has clarified the way in which Mr Ngaïssona is in contact with [REDACTED] and the extent thereof. It has also provided further information on [REDACTED] communications with Mr Ngaïssona regarding the events described in the Ninth Registry Report, ICC-01/14-01/18-2143-Conf-Exp".<sup>9</sup> Should the Chamber deem it necessary, the Defence stands ready to submit further information in this regard.

Respectfully submitted,



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Mr Knoop, Lead Counsel for Patrice-Edouard Ngaïssona

Dated this 7 November 2023

At The Hague, the Netherlands.

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<sup>6</sup> ICC-01/14-01/18-2155-Conf-Exp, para. 5.

<sup>7</sup> ICC-01/14-01/18-2143-Conf-Exp-Anx.

<sup>8</sup> ICC-01/14-01/18-2155-Conf-Red.

<sup>9</sup> Ibid.