

Annex 21

Public

From: Trial Chamber X Communications
Sent: 26 January 2021 09:33
To: D28 Al Hassan Defence Team; Al Hassan Prosecution Team; V43 Victims Al Hassan Team
Cc: Associate Legal Officer-Court Officer; Office of the Director DJSS; Chamber Decisions Communication; Trial Chamber X Communications
Subject: Decision on the classification of the report of the Panel of experts and deadline for observations

Dear Counsel,
 Dear Colleagues,

On 9 December 2020, the Registry filed the Report of the Panel of Experts appointed by the Chamber pursuant to Rule 135 on the record (ICC-01/12-01/18-1197-Conf-Exp-Anx; the 'Panel Report').

On 14 December 2020, the Defence submitted a request in which it identified certain medical records and filings which the Registry had not transmitted to the Panel despite Mr Al Hassan consenting to their provision. Consequently, the Defence requested that the Chamber: (i) send the Panel a full and complete index of all documents that should have been made available to the Panel, together with clear information as concerns Mr Al Hassan's consent as regards access and usage, and translations, if any; and (ii) allow the Panel to conduct a read-back with Mr Al Hassan before the report is finalised, in order to correct any factual errors (Email from the Defence, 14 December 2020 at 21:06).

On 5 January 2021, the Single Judge partially granted the aforementioned Defence request, instructing the Registry to immediately provide to the Panel any items that were not previously given, and requesting the Panel to 'review the additional material and indicate as soon as possible, and in any event no later than Wednesday 20 January 2020, whether the newly provided material warrants substantive adjustments to the conclusions in the submitted report' (Email from the Chamber, 5 January 2021 at 10:38).

It was determined that a read back was not necessary as the parties and participants will be given an opportunity to submit observations on the final report of the Panel and any alleged misinterpretation of the facts can be raised therein.

On 19 January 2021, the Panel informed the Chamber through the Registry that the additional medical records do not warrant any change to the conclusions in the Panel Report (Email from the Registry, 19 January 2021 at 11:36).

On the same date, the Single Judge instructed the Registry to reclassify the Panel Report as confidential *ex parte* (Chamber, Registry and Defence only) and instructed the Defence to propose any redactions to the confidential redacted version by 25 January 2021 (Email from the Chamber, 19 January 2021 at 14:04).

On 25 January 2021, the Defence indicated that it does not propose any redactions to the confidential version of the Panel Report. The Defence however clarifies that it 'does not consent to the Registry transmitting to the Prosecution any other personal medical records of Mr. Al Hassan or extracts from his confidential detention records'. The Defence submits that '[s]uch documents, if requested, should only be disclosed by the Defence, after obtaining Mr. Al Hassan's consent, and implementing any redactions' (Email from the Defence, 25 January 2021 at 14:45).

Noting the Defence submissions, the Chamber instructs the Registry to reclassify the Panel Report (ICC-01/12-01/18-1197-Conf-Exp-Anx) as 'confidential'.

The parties and participants are instructed to submit any observations on the Panel Report by **Tuesday, 23 February 2021**.

Kind regards,

On behalf of Trial Chamber X