

Annex I

Public

[REDACTED]

From: Trial Chamber X Communications
Sent: 12 October 2020 12:35
To: Al Hassan Prosecution Team; 'D28AlHassanDefenceTeam[REDACTED]'; 'V43LRVTeam[REDACTED]'
Cc: FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber X Communications
Subject: Decision on submitted material for P-0075

Dear counsel,
Dear colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution dated 23 September 2020 at 15:44 and corresponding attachment) following the testimony of P-0075.

It is noted that the Defence objects to the submission of all items listed at Tabs 30 and 31 of the Prosecution's list (Email from the Defence dated 1 October 2020 at 12:53). This objection was submitted late but was accepted pursuant to Regulation 35 of the Regulations of the Court (see Email from the Chamber dated 1 October 2020 at 14:16). The Prosecution submits that the contested items should be submitted (Email from the Prosecution dated 2 October 2020 at 15:37). It is also noted that the Defence does not seek the submission of any items for this witness.

The Chamber has had due regard to the email exchanges between the parties. The Chamber has also considered the nature and scope of the witness's testimony, particularly that the Chamber previously authorised the introduction pursuant to Rule 68(3) of the Rules of Procedure and Evidence (the 'Rules') of reports and certain related material (see Decision ICC-01/12-01/18-989-Conf, paras 113-119), being the items at Tabs 1 to 29 in the list sought to be submitted by the Prosecution, and that the formalities pursuant to this provision were met during P-0075's testimony.

For the remainder of the items in the list sought to be submitted by the Prosecution, being those in Tabs 30 and 31, the Chamber recalls that it previously rejected a request from the Prosecution to add such items under Rule 68(3) on the eve of P-0075's testimony (see Email from the Chamber dated 21 September 2020 at 13:20, the '21 September Email'). In the 21 September Email, the Chamber left open the possibility for the Prosecution to submit the items in another way, including through P-0075 in court.

Noting the scope of P-0075's in court testimony, the volume of material, the lack of a clear attempt to use any of this material in court with P-0075 in response to the Chamber's concerns in the 21 September Email, and the Defence's objections in this regard, the Chamber is not satisfied that these items were sufficiently used or discussed with P-0075 during his testimony for them to be recognised as formally submitted through this witness. The Chamber therefore rejects the submission of the items at Tabs 30 and 31 of the Prosecution's list through P-0075. This is nevertheless without prejudice to the Prosecution's right to submit such items in another way in accordance with the Directions on the conduct of the proceedings (ICC-01/12-01/18-789-AnxA).

Accordingly, the Chamber recognises the formal submission of the items at Tabs numbered 1 to 29 in the list attached to Prosecution's email of 23 September 2020. The Registry is directed to proceed in accordance with paragraph 34(vi) of the Directions on the conduct of the proceedings (ICC-01/12-01/18-789-AnxA).

Kind regards,

[REDACTED]
on behalf of Trial Chamber X