

Annex I

Public

From: Trial Chamber X Communications
Sent: 27 May 2021 17:30
To: Al Hassan Prosecution Team; 'D28AlHassanDefenceTeam'; 'V43LRVTeam';
Cc: FS Items Communication; Trial Chamber X Communications; Associate Legal Officer-Court Officer
Subject: Decision on submitted material for P-0602
Attachments: OTP reply 21.05.2021.pdf; Defence email 21.05.2021.pdf; Defence email 25.05.2021.pdf; Defence response 21.05.2021.pdf; OTP email 21.05.2021.pdf; OTP email 26.05.2021.pdf

Dear Counsel,
 Dear colleagues,

The Chamber takes note of the emails sent by the parties on 21 May 2021 (at 12:07, 15:53, 17:45 and 17:59) and the further emails of 25 and 26 May 2021. The Chamber observes that no items are being submitted through Witness P-0602 pursuant to paragraph 34(ii) of the Directions on the conduct of the proceedings (ICC-01/12-01/18-789-AnxA). Relatedly, the Chamber notes that the Ecourt metadata of exhibit MLI-OTP-0015-0495 include a comment from the Court Officer dated 19 May 2021 which specifies the timestamps of the excerpt used in court with P-0602. In the view of the Chamber, and since this exhibit has already been recognised as formally submitted via P-0065 (email from the Chamber on 18 December 2020 at 10:05), the current metadata entries appropriately capture the relevant information.

In relation to the further submissions from the Defence on 25 May, the Chamber considers that it was clear from the Prosecution email of 21 May at 12:07 that the Prosecution was seeking to rely on its use of the extract of video MLI-OTP-0015-0495 with P-0602, and considers that the Defence's objection that this extract cannot be 'tendered for the purposes of identification' is therefore late. Nevertheless, the Chamber will consider the late Defence submissions of 25 May and the subsequent reply from the Prosecution of 26 May in the interests of justice and determination of the truth. However, this notwithstanding, the objection (and reply) relate to the probative value and weight to be given to P-0602's testimony in relation to this excerpt, which is a matter the Chamber will determine in due course, at the judgment stage.

Finally, the Chamber considers it necessary to provide some further guidance on the submission of videos, since there seems to be confusion among the parties on this matter. As previously noted, when a video is first used with a witness during testimony and sought to be submitted, the entire video is submitted into evidence, even if only certain extracts were used with the witness. This, for the sake of practicality and to avoid potential submission of the same video multiple times for different witnesses with different extracts. When the same video is used again with different witnesses, the extracts used need not be submitted into evidence, since submission of the video occurs only once. The Ecourt metadata would reflect the extracts of the video used with a witness. In assessing the evidence of the witnesses with regards to the video, the Chamber would take into account, as relevant, *inter alia*, the way in which the video was used, the extracts actually used with the witness, and, if relevant, the knowledge of the witness as to the whole video (for example, where the witness is the author of the video).

Kind regards,

(on behalf of Trial Chamber X)