

Annex I

Public

From: Trial Chamber X Communications
Sent: 23 October 2020 08:54
To: Al Hassan Prosecution Team; 'D28AlHassanDefenceTeam'; 'V43LRVTeam';
Cc: FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber X Communications
Subject: Decision on submitted material for P-0064
Attachments: Chamber decision rejecting Defence request to reply 8-10-2020.pdf; Defence request for leave to further reply 06.10.2020.pdf; Defence response 02.10.2020.pdf; Defence Submission of Material 30.09.2020.pdf; Prosecution reply 05.10.2020.pdf; Prosecution response 01.10.2020.pdf; Prosecution Submission of Material 29.09.2020.pdf

Dear colleagues,
 Dear counsel,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution dated 29 September 2020 at 18:12 and corresponding attachment), as well as by the Defence (Email from the Defence dated 30 September 2020 at 15:43) following the testimony of P-0064.

It is noted that the Prosecution does not object to the submission of the items proposed by the Defence (E-mail from the Prosecution on 1 October 2020 at 09:51).

The Chamber takes note of the Defence's objections (E-mail from the Defence of 2 October 2020 at 15:55) and the Prosecution's response thereto (E-mail from the Prosecution of 5 October 2020 at 14:00). The Chamber also notes its decision rejecting the Defence's request for leave to submit a further reply (E-mail from Trial Chamber X Communication of 8 October 2020 at 19:37).

The Chamber has had due regard to the email exchanges between the parties as a result of their respective submission of items following the testimony of P-0064.

The Chamber notes that the Defence objects to the submission of the expert report MLI-OTP-0021-0006 and three CDs related to this report (MLI-OTP-0021-0041, MLI-OTP-0021-0042 and MLI-OTP-0021-0043).

The Chamber has considered the nature and scope of this expert'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 the aforesaid objected items (see Decision ICC-01/12-01/18-989-Conf, paras 105-106). The Chamber further notes that the formalities pursuant to this provision were met during P-0064's testimony.

Moreover, as regards the Defence's objections related to the reliability, relevance and limited use of P-0064's evidence, the Chamber reiterates that the formal submission of these items is without prejudice to their admissibility and the weight to be given to each item of evidence in the Chamber's judgment pursuant to Article 74 of the Statute.

Accordingly, the Chamber recognises the formal submission of items contained in the table attached to the email received from the Prosecution on 29 September 2020.

Noting there is no objection from the Prosecution, and considering that the two items the Defence seeks to submit were used during the cross-examination of P-0064, the Chamber also authorises their submission.

Accordingly, items MLI-D28-0004-0831 and MLI-D28-0004-0833 are recognised as formally submitted.

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)