

Annex I

Public

From: Trial Chamber X Communications
Sent: 07 October 2020 17:14
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-0623
Attachments: OTP submission email 24.09.2020.pdf; Defence submission email 25.09.2020.pdf; OTP Response 25.09.2020.pdf; Defence Reply 29.09.2020.pdf

Dear counsel,
 Dear colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution dated 24 September 2020 at 15:01 and corresponding attachment), as well as by the Defence (Email from the Defence dated 25 September 2020 at 10:37) following the testimony of P-0623.

It is noted that the Prosecution does not object to the submissions of items by the Defence and requests the further submission of one additional item used by the Defence during cross examination, being the call data record MLI-OTP-0051-0139 (Email from the Prosecution dated 25 September 2020 at 17:21). It is noted that the Defence made no objections to the initial submission of items by the Prosecution, but objects to the Prosecution's further submission of the call data record MLI-OTP-0051-0139, arguing that this should be rejected (Email from the Defence dated 29 September 2020 at 15:52).

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-0623, particularly that there is no objection to the submission of the said items except for MLI-OTP-0051-0139. The Chamber is satisfied that all items in question were sufficiently used or discussed with P-0623 during her testimony for them to be recognised as formally submitted.

Regarding the objected call data record MLI-OTP-0051-0139, the Chamber notes that the Defence objects to submission of this item on the basis that, *inter alia*, the Prosecution failed to submit the item by the deadline in paragraph 34(ii) of ICC-01/12-01/18-789-AnxA and that having failed to do so, the Prosecution cannot seek to submit this item 'through the Defence'. The Chamber notes that in principle parties should include for submission by the initial deadline all those items which they consider necessary for submission. However, in the present case, noting the nature of the item and its use during cross examination, the Chamber considers it to be in the interests of justice and the determination of the truth to allow its submission.

As regards the parties' submissions on the evaluation of the items, 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 all items contained in the email submissions received from the Prosecution on 24 September 2020 and the Defence on 25 September 2020, and MLI-OTP-0051-0139 mentioned in the email from the Prosecution of 25 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,

on behalf of Trial Chamber X