

Annex I

Public

From: Trial Chamber X Communications
Sent: 15 June 2021 11:22
To: Al Hassan Prosecution Team; 'D28AlHassanDefenceTeam'; 'V43LRVTeam';
Cc: FS Items Communication; Associate Legal Officer-Court Officer; Trial Chamber X Communications
Subject: TC X: Decision on submitted material for P-0127
Attachments: OTP email and attachment 28.05.2021.pdf; Defence email 31.05.2021.pdf; Defence response email 02.06.2021.pdf; OTP reply email 03.06.2021.pdf

Dear Counsels,
 Dear colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution of 28 May 2021 at 16:03 and attachment), the Defence's related objections (Email from the Defence of 2 June 2021 at 13:39), and the Prosecution's reply thereto (Email from the Prosecution of 3 June 2021 at 17:00), following the testimony of P-0127. The Chamber further notes that the Defence informs it does not wish to tender any items through P-0127 (Email from the Defence of 31 May 2021 at 15:06).

The Chamber notes that the Defence objects to the submission of two items (MLI-OTP-0025-0006 and MLI-OTP-0029-0502). These are two panoramas that P-0127 testified to having created. It is not contested that they were used in court with P-0127 and discussed at length.

The Defence however submits that the panoramas are not suitable for submission. It also argues that, if submitted into evidence, the panoramas lack relevance and probative value, and that caution is required if and when relying on these 'visual tools'. In its reply, the Prosecution argues that the Defence's assertions are unfounded and, if anything, relate to the admissibility and weight to be attributed to the items rather than to their submission. The Chamber agrees with the Prosecution and is of the view that nothing in the Defence's response prevents the recognition of the two contested items as formally submitted. The Chamber also finds it appropriate to clearly indicate that P-0127's purported views and statements that the material he created are 'neither evidence nor were they created for evidential purposes', relied upon by the Defence to argue that these items 'are not suitable to be submitted as evidence', has no bearing on the Chamber's determination on the submission of this material.

The Chamber therefore authorises the submission of the material identified in the attachment of the Prosecution's e-mail of 28 May 2021 at 16:03. 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. It is in the context of this assessment that the parties' submissions contained in the abovementioned emails will be considered by the Chamber.

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