

Annex I

Public

From: Trial Chamber X Communications
Sent: 05 March 2021 16:58
To: Trial Chamber X Communications; D28 Al Hassan Defence Team (D28AlHassanDefenceTeam [REDACTED]); Al Hassan Prosecution Team; V43 Victims Al Hassan Team
Cc: Associate Legal Officer-Court Officer; FS Items Communication
Subject: Decision on submitted material for P-0431
Attachments: Defence List of material for submission P-0431.pdf; Defence Objections to OTP List of material for submission P-0431.pdf; Defence Reply to OTP Objections to Defence List of material for submission P-0431.pdf; OTP List of material for submission P-0431.pdf; OTP Objections to Defence List of material for submission P-0431.pdf; OTP Reply to Defence Objections to OTP List of material for submission P-0431.pdf

Dear counsel,
 Dear colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution of 23 February 2021 at 17:18 and corresponding attachment), as well as by the Defence (Email from the Defence of 24 February 2021 at 17:17) following the testimony of P-0431.

The Chamber takes note of the Defence's objections to items the Prosecution seeks to submit through P-0431 (E-mail from the Defence of 26 February 2021 at 14:55) and the Prosecution's reply thereto (E-mail from the Prosecution of 26 February 2021 at 16:41).

The Chamber also takes note of the Prosecution's objections to the item the Defence seeks to submit through P-0431 (E-mail from the Prosecution of 26 February 2021 at 18:33) and the Defence's reply thereto (E-mail from the Defence on 1 March 2021 at 15:55).

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-0431.

As regards the items to be submitted by the Prosecution, the Chamber notes the Defence objects to the submission of one item (MLI-OTP-0037-0069), which is a report [REDACTED]. During his testimony, when shown the cover page of the report at MLI-OTP-0037-0070, P-0431 confirmed he provided this document to the Prosecution (T-062-CONF-ENG-ET, p. 34, lines 17-20). Also, as submitted by the Prosecution, P-0431 also confirmed in his testimony that he attended the meeting referred to in this report, which took place in South Africa (T-062-CONF-ENG-ET, p. 30, lines 11-14; p. 33, lines 13-22).

The Chamber therefore considers that item MLI-OTP-0037-0069 was sufficiently used or discussed with P-0431 during the course of his testimony for it to be recognised as formally submitted.

Accordingly, the Chamber authorises the submission of the material identified in the attachment of the Prosecution's e-mail of 23 February 2021 at 17:18.

As regards the items to be submitted by the Defence the Chamber notes that the Prosecution's objections are two-fold. First, the Prosecution objects to the submission of certain documents that were shown to P-0431 during his testimony, but which he stated were either prior to (1994, 1995 and 1997) or subsequent (2018-2022) to [REDACTED]. Second, the Prosecution makes a general objection, not to the submission, but to the comments made by the Defence on the relevance of certain items shown to P-0431.

As regards the first category of objections (related particularly to items MLI-D28-0004-4847, MLI-D28-0004-4898, MLI-D28-0004-4980 and MLI-D28-0004-6905), the Chamber considers that the items were in the broad sense shown and discussed with P-0431. As regards the second more general category of objections, the Chamber notes that the Prosecution does not question their submission, but the interpretation given by the Defence on their relevance. 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 authorises the submission of the material identified in the Defence e-mail of 24 February 2021 at 17:17.

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)