

ANNEX V

PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 25 February 2020 12:33
To: [REDACTED]
Subject: [REDACTED] Trial Chamber IX Communications;
Attachments: [REDACTED] disclosure regarding information used by the Defence in its Closing Brief
email communication Defence-Chamber 24.10.2018.pdf

Dear parties and participants,

The Defence discusses in its Closing Brief (paras 136-145) the purported failure of the Chamber to implement the recommendations of the medical officer of the Detention Centre.

In this discussion it makes reference to an email communication in which the Chamber ruled on a request by the Defence ('Email Communication', Fn 181).

The Closing Statements are an opportunity for each party and participant, should they wish to do so, to address issues in the Closing Briefs of the other parties and participants. In this regard the Closing Statements are, in part, reactionary to the Closing Briefs of the other parties and participants.

The Defence has displayed its identical view of the purpose of the Closing Statements in several requests (filing - 1238, para. 33; filing -1668, paras 1-2, 49-51). The Chamber confirmed this view (decision -1259, para. 16).

This means that the references mentioned in Closing Briefs must be available to the other parties and participants in order to allow them to respond to the arguments made.

The Chamber notes that the Email Communication is only available in redacted form to the other parties and participants at this point in time (filing -1483, Annex 43). These redactions were done in order to protect details about the medical treatment Mr Ongwen was undergoing at the time.

However, the Defence makes the state of health of Mr Ongwen, and its appropriate treatment, a live issue in its Closing Brief. It argues that the Chamber 'did not implement the ICC-DC Medical Officer's recommendations' and 'rejected all the Defence request on this matter', referencing the Email Communication in support (para. 137, Defence Closing Brief). In order for the other parties and participants to meaningfully respond to the issue, it is necessary that they have the entire content of the Email Communication in its unredacted form.

The Chamber also takes into account the content of the information that form the redactions. It finds that the initial considerations redacting the details about Mr Ongwen's medical treatment must stand back, due the Defence's use of the information in the Closing Brief. Accordingly, the Chamber hereby transmits the Email Communication in its unredacted form to the parties and participants.

Kind regards,
Trial Chamber IX