

ANNEX 15

Public redacted

[REDACTED]

From: Trial Chamber X Communications
Sent: 21 September 2020 13:20
To: Dutertre, Gilles; [REDACTED]
Cc: D28 Al Hassan Defence Team; V43 Victims Al Hassan Team; [REDACTED]
 [REDACTED] Trial Chamber X Communications
Subject: RE: List of material for Witness MLI-OTP-P-0075

Follow Up Flag: Follow up
Flag Status: Flagged

Dear counsel,

The Chamber notes with concern that this matter was raised by email on the eve of P-0075's testimony and only after being prompted by the Chamber. The Chamber's view is that the volume of material is too significant to add to Rule 68(3) via this witness in such a manner, noting in particular that the items at Tab 30 of the List (pages 3-55) appear to be either items which the Chamber expressly noted in [Decision 989](#) were not to be submitted via P-0075 (see para. 119 and footnote 129 of Decision 989 and Section III of [851-Conf-AnxC](#)), or items which were not listed at all in [851-Conf-AnxC](#) (see e.g. the items at pages 24-31 of the List).

If there was an oversight on this matter on the part of the Prosecution, it was open to the Prosecution to seize the Chamber with a request for reconsideration of Decision 989 in August.

Accordingly, the Prosecution's request to add the items in question to those already authorised by the Chamber in Decision 989 is rejected.

This is without prejudice to the items being submitted in another way in accordance with the Chamber's Directions on the conduct of proceedings, for example through P-0075 in court, through other witnesses as appropriate, or through a 'bar table' motion.

The Chamber also takes this opportunity to remind the parties and participants that matters of this nature should not be raised orally in court, and should be resolved, to the extent possible, in writing ahead of testimony, in order to ensure that sitting time is used to hear evidence.

Kind regards,

[REDACTED] on behalf of Trial Chamber X

From: Dutertre, Gilles [REDACTED]
Sent: 18 September 2020 19:03
To: Trial Chamber X Communications [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
Cc: [REDACTED]
 [REDACTED]
 [REDACTED] >
Subject: RE: List of material for Witness MLI-OTP-P-0075

Dear Trial Chamber X,

The Prosecution apologizes for not having clarified this matter with the Chamber when sending the List of Materials for Witness P-0075.

The Prosecution listed these additional items to be submitted under Rule 68(3) through Witness P-0075 because it would like to add them to those already authorized by the Chamber in Decision 989: its intent was to raise the issue of their submission through 68 (3) orally before the Chamber prior to P-0075's testimony.

In its Rule 68 (3) request (ICC-01/12-01/18-851, par. 45), the Prosecution mistakenly indicated that it was not seeking the submission of items listed in Section III of 851-Conf-AnxC (Annex C) under Rule 68 (3). This should only have applied to the CDR files.

- 1) The Prosecution therefore requests that Items 1 to 7 of Section III of Annex C also be submitted through Rule 68 (3), namely:

) MLI-OTP-0012-1371 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED];

) MLI-OTP-0016-0496: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED];

) MLI-OTP-0041-0577: [REDACTED]
[REDACTED]
[REDACTED]).

) MLI-OTP-0038-0002: [REDACTED]
[REDACTED]
[REDACTED]).

) MLI-OTP-0050-0716: [REDACTED]
[REDACTED]
[REDACTED]).

) MLI-OTP-0056-0022: [REDACTED]
[REDACTED]
[REDACTED]).

) MLI-OTP-0031-0625: [REDACTED]
[REDACTED]
[REDACTED]).

- 2) The Prosecution also requests to submit through Witness P-0075 - pursuant to Rule 68 (3) - the files (under tab 30 of the list of material*) which are mentioned in the 16 reports (listed in Section I of Annex C) authorized for Introduction by the Chamber at para. 117 of Decision 989, including their corresponding transcripts and translations listed under tab 31, but not the CDR files.

These are files that P-0075 himself extracted from the items listed above and analysed in his reports. As such the Prosecution submits that they should be submitted at the same time.

In order to save Court time, the Prosecution can fully detail these submissions under para. 34 ii of the Chamber's conduct of proceeding decision.

Best regards,

Gilles Dutertre

* As a result of an oversight, the Prosecution acknowledges that some of the incriminating items listed in the list of Material for P-0075 are not referred to in section III of Annex C of the rule 68(3) application (even though they are mentioned in the mission letters to P-0075 corresponding to the 16 reports).

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From: Trial Chamber X Communications
Sent: 18 September 2020 09:41
To: Dutertre, Gilles; [REDACTED]
Cc: [REDACTED]
Subject: RE: List of material for Witness MLI-OTP-P-0075

Dear counsel

The Chamber notes that the Prosecution's List of material for Witness P-0075 (the List) lists all items (79 pages) as **'To Be Admitted under Rule 68(3) through Witness P-0075'**.

The Chamber recalls that the only items authorised to be introduced under Rule 68(3) through P-0075 are the items listed at Tabs 1-29 (pages 1-3) of the List (see [Decision 989](#), paras 113-120, and pages 1 to 6 of [851-Conf-AnxC](#)).

The Chamber further notes that the items at Tab 30 of the List (pages 3-55) appear to be either items which the Chamber expressly noted in [Decision 989](#) were not to be submitted via P-0075 (see para. 119 and footnote 129 of [Decision 989](#) and Section III of [851-Conf-AnxC](#)), or items which were not listed at all in [851-Conf-AnxC](#) (see e.g. the items at pages 24-31 of the List).

The Chamber would therefore like clarification of this matter by email, today at the latest.

Kind regards,

[REDACTED] on behalf of Trial Chamber X

-----Original Message-----

From: Dutertre, Gilles [REDACTED]
Sent: 15 September 2020 19:26
To: Trial Chamber X Communications; Taylor, Melinda; [REDACTED] Nsita Luvengika, Fidel; Kassongo, Mayombo; Doumbia, Seydou
[REDACTED]

Subject: List of material for Witness MLI-OTP-P-0075

Chère Chambre de Première Instance X et Chers Collègues,

Conformément au paragraphe 57 de l'annexe ICC-01/12-01/18-789-AnnA, l'Accusation vous prie de bien vouloir trouver en pièce jointe la "List of Material" concernant le témoin P-0075.

Respectueusement,

Gilles Dutertre

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