

ANNEX 10

Public redacted

From: Trial Chamber X Communications
Sent: 09 July 2020 11:01
To: Dutertre, Gilles; Taylor, Melinda
Cc: [REDACTED] Doumbia, Seydou; Kassongo, Mayombo; [REDACTED] Nsita Luvengika, [REDACTED] Trial Chamber X Communications; [REDACTED]
Subject: Decision on Defence request for variation of time limit for filing objections to materials to be used in the course of the opening statements
Follow Up Flag: Follow up
Flag Status: Flagged
Categories: Red Category

Dear Counsels,

Having had regard to the Prosecution's list of materials it intends to use in the course of their opening statements, and pursuant to Regulation 35 of the Regulations of the Court, the Chamber partially grants the below request and authorises the **Defence** to file any objections by 10 July 2020 at 12:00.

In accordance with paragraph 16 of ICC-01/12-01/18-789-AnxA, such objections shall be sent via email.

To facilitate the Defence's review of the materials, the Chamber encourages the **Prosecution** to provide necessary assistance, including by providing an updated list, should it become aware that some of the materials indicated in its list will no longer be relied upon during its opening statement.

The Chamber also notes that the **Defence** and the **LRVs** were required, in accordance with paragraphs 15-16 of ICC-01/12-01/18-789-AnxA, to either: (i) inform the Chamber their intention to give their opening statements prior to their presentation of their evidence, rather than during trial commencement, by 30 June 2020; or (ii) should they choose to give their opening statements during trial commencement, submit a list of materials they intend to use during their opening statements by 6 July 2020.

Since no notice under (i) above was provided, the Chamber requests that the **Defence** and the **LRVs** to confirm as soon as possible, and in any event no later than the above deadline on objections, whether they will give their opening statements during trial commencement.

Kind regards,

[REDACTED]
 On behalf of Trial Chamber X

From: Dutertre, Gilles
 Sent: 09 July 2020 09:56
 To: [REDACTED]; Trial Chamber X Communications
 Cc: [REDACTED] Doumbia, Seydou; Kassongo, Mayombo; [REDACTED] Nsita Luvengika, Fidel; [REDACTED]
 Subject: RE: Request - Objections to the use of materials

Dear Trial Chamber X,

The Prosecution opposes the Defence request.

In accordance with the Conduct of Proceedings decision, the Prosecution “indicate[d] by email any materials [it intends] to use in the course of [its] opening [statement] to the Chamber and the other party and participants by no later than eight days prior to the commencement of trial” (ICC-01/12-01/18-789AnxA, para. 16).

Any metadata associated with these materials are readily available to the Defence in eCourt.

No additional details are required to be provided to the Defence and therefore its request should be denied.

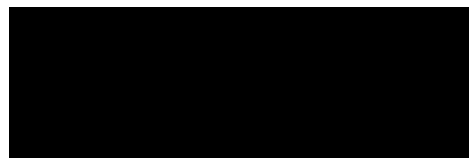
Further, as indicated to the Defence, the Prosecution will soon provide the lists with hyperlinks to eCourt to facilitate access to these items.

Kind regards,

Gilles Dutertre

PS:

The lists are further updated by deleting the following 12 items, as the Prosecution no longer intends to rely on them.



From: [REDACTED]
 Sent: 08 July 2020 21:19
 To: Trial Chamber X Communications
 Cc: Dutertre, Gilles; [REDACTED] Doumbia, Seydou; Kassongo, Mayombo;
 [REDACTED] Nsita Luvengika, [REDACTED] Taylor, Melinda; [REDACTED]
 Subject: Request - Objections to the use of materials

Dear Honourable Trial Chamber X,

On 06 July, the Prosecution communicated by email two tables citing the materials they intend to use in the course of the opening statement: 1) material for the opening of the trial and 2) rapports de la PI et Jugements du TI. One of these two tables (material for the opening of the trial) lists 714 items and it simply provides the ERN numbers for each, without any indication of the details of those materials. Given

that the opening statement is only supposed to last 4 hours, it is not clear whether all evidential items will be referred to, and the particular section or component of the item that will be cited to.

On 07 July, the Defence asked the Prosecution via email whether, given the number of documents and the short response deadline, they would provide a more detailed table with hyperlinks, especially as in some other cases the OTP has provided more details, namely the Doc ID, Main Date, Type, Title and Package. On 08 July, the Defence sent a follow up email to which the OTP responded that they would send a hyperlinked version that day. However, the Defence haven't yet received the new version of the abovementioned tables yet.

In accordance with paragraph 16 of Annex A to Trial Chamber X's "Decision on the conduct of proceedings" (ICC-01/12-01/18-789-AnxA), any objections to the use of materials should be provided via email no later than five days prior to the commencement of trial, which means that the Defence must provide any objections to these materials tomorrow, Thursday 09 July.

Given the significant number of materials that the Defence need to examine, the fact that no details regarding these materials have been provided and there has been no indication on which extracts and pages the Prosecution will rely in the course of the opening statements, the Defence hereby respectfully request the Honourable Trial Chamber X to authorise the filing of their objections on Friday, 10 July.

Kind regards,
Defence Al Hassan

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