

Annex 9

PUBLIC REDACTED

From: Trial Chamber X Communications
Sent: 19 November 2020 09:48
To: [REDACTED] Trial Chamber X Communications; Office of the Director DJSS
Cc: D28 Al Hassan Defence Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: RE: Al Hassan: Report on Detention Centre temporary COVID-19 measures

Dear colleagues,
 Dear counsel,

On behalf of the Chamber, I acknowledge receipt of your e-mail.

The Chamber notes that privileged communications between the accused and his counsel are guaranteed despite the current circumstances. However, the Chamber considers that the accused should be able to directly confer with his counsel before and after the court sessions, as done usually at the Court headquarters. For example, the Chamber is of the view that during the 30-minute morning break, Mr Al Hassan could remain at the video-link room so he can confer with his counsel if needed. During the lunch break and after the afternoon hearing, as done at the Court's headquarters, Mr Al Hassan could be brought to/remain at the video-link room some 10 minutes before and after the court session to confer with his counsel if necessary. The Chamber therefore instructs the Registry to liaise with the Defence so that privileged communications during court sessions but also between court sessions, take place as swiftly and directly as possible.

As regards the visits to the Detention centre, the Chamber considers that in the instant case the measures appear to be necessary to protect the detained persons but also those persons involved in the court proceedings.

The Chamber appreciates the Registry's efforts to facilitate court proceedings despite the many challenges faced and looks forward to the expected update at the end of the week.

Kind regards,

[REDACTED]
 (On behalf of Trial Chamber X)

From: [REDACTED]
Sent: 18 November 2020 17:27
To: Trial Chamber X Communications; Office of the Director DJSS
Cc: D28 Al Hassan Defence Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: RE: Al Hassan: Report on Detention Centre temporary COVID-19 measures

Dear Trial Chamber X,

On behalf of the Registry, I acknowledge receipt of the Chamber's e-mail and instructions, which have been duly noted. In this regard I confirm that the Registry will provide its report by Friday 4pm on 20 November 2020. In relation to item i), and after internal consultation, I kindly draw the Chamber's attention to the below information:

The ICC Detention Centre is currently experiencing an unfortunate emergency situation in view of the positive COVID-19 cases. Taking this into account, the Registry is required to respect the quarantine protocols as set by the Dutch government and in addition, the Registrar has accepted the recommendations made by the Medical Officer considering his responsibilities under regulation 155 of the Regulations of the Registry. In this regard the Registry further highlights the duty of the Registrar to protect the health and safety of detained persons pursuant to regulation 103 of the Regulations of the Court.

Considering the current situation, in-person visits are therefore not possible during the time of Mr Al Hassan's quarantine. While the Registry is sympathetic to the needs of Counsel, it stresses that in the current circumstances the health of all detained persons is of paramount importance taking into consideration the potentially fatal effect of the virus. This situation has unfortunately affected the daily operations of the ICC Detention Centre, and the resulting measures are essential.

Nevertheless, during this period privileged phone calls and privileged video communications continue to be offered and the Registry would encourage the Defence to utilize them. With regard to in-person visits, the Registry will continue to monitor the evolving situation at the ICC Detention Centre and will provide further details by Friday as requested by the Chamber.

With regard to communication between Counsel and Mr Al Hassan, and in view of the incident Counsel referred to during today's hearing and related to the call to Mr Al Hassan during the courtroom break, the Registry respectfully clarifies that the specially programed telephone in the cell with courtroom video link is for use only during the court proceedings, otherwise the normal telephone protocols apply. During the breaks between court sessions Mr Al Hassan leaves the cell with the courtroom video link and specially programed telephone, and he returns to his own accommodation area. When the courtroom video link cell is vacated during court breaks no person remains inside.

The incident Counsel referred to in the hearing today happened when Counsel called the special phone during a courtroom break and no one was in the courtroom video link cell. However, should Counsel wish to contact Mr Al Hassan during breaks, she is invited to follow the calling procedure normally in place at the Detention Centre. This will allow Mr Al Hassan to receive the call in the usual manner. There is therefore no change in the communications regime and communications can take place as normal.

The Registry further remains available to the Chamber for any additional information with regard to the emergency situation at the ICC Detention Centre.

Kind regards,

[REDACTED]

Office of the Director DJS
Registry

From: Trial Chamber X Communications

Sent: 18 November 2020 11:49

To: Office of the Director DJSS

Cc: D28 Al Hassan Defence Team; Associate Legal Officer-Court Officer; Trial Chamber X Communications; Chamber Decisions Communication

Subject: Al Hassan: Report on Detention Centre temporary COVID-19 measures

Dear colleagues,

The Chamber has been seised of a request from the Defence for the Registry to prepare a report on the situation affecting Mr Al Hassan in the Detention Centre ahead of the next witnesses.

At the outset the Chamber notes with concern the way in which the Defence was informed of Mr Al Hassan's placement into quarantine late on Friday 13 November, without any information, in particular, on the impact on his attendance at the hearing the following Monday. This is despite the fact that the Chamber had requested the Registry to confirm on Friday evening that counsel had been made aware of the impact on Mr Al Hassan's presence at the hearing. Should any similar issue arise in future, it is incumbent on the Registry to promptly inform counsel of all relevant information. The Chamber also emphasises that all those involved in the proceedings, including the Registry's court officer and the VWU should also be duly informed of any matter that may have an impact in the trial proceedings.

To enable the Defence to plan its preparation for the upcoming three witnesses, the Chamber instructs the Registry to:

- (i) report by COB today on the status of the Defence's ability to visit and consult with Mr Al Hassan at the Detention Unit; and
- (ii) report by 4pm on Friday 20 November 2020 on the following: (a) the situation that led to the quarantine and current status; (b) updated information on the length of time that Mr Al Hassan is expected to remain in quarantine; (c) any update on item (i); and (d) any other relevant matter.

The reports may be provided by email.

Kind regards,

██████████ on behalf of Trial Chamber X