

Annex 11

PUBLIC
REDACTED

From: Trial Chamber X Communications
Sent: 19 November 2020 19:00
To: Dutertre, Gilles; Trial Chamber X Communications
Cc: D28 Al Hassan Defence Team (D28AlHassanDefenceTeam [REDACTED]) V43 Victims Al Hassan Team (V43LRVTeam [REDACTED])
Subject: Chamber Decisions Communication
 RE: Rule 68 2 filings

Dear Counsel,

The Single Judge has exceptionally decided on the matter without seeking the views of the Defence or the legal representatives for victims.

The Single Judge has taken into consideration that the procedure requested by the Prosecution for the submission of its Rule 68(2) applications has been applied previously in the submission of Rule 68(3) applications in order to simplify the procedure.

Accordingly, the Single Judge grants the Prosecution's request, noting however that all other requirements for filing Rule 68(2) applications remain applicable (Directions on the conduct of proceedings (ICC-01/12-01/18-789-AnxA, paras 80-81).

Kind regards,

(on behalf of the Single Judge to Trial Chamber X)

From: Dutertre, Gilles
 Sent: 19 November 2020 16:13
 To: Trial Chamber X Communications
 Cc: D28 Al Hassan Defence Team [REDACTED] V43 Victims Al Hassan Team [REDACTED]

Subject: Rule 68 2 filings

Dear Trial Chamber X,

The Prosecution respectfully requests to be authorised to identify each item of evidence relevant to its rule 68(2) applications by reference to the ERN of the relevant documents and materials –with a hyperlink to the ERN's location in eCourt- instead of annexing the said documents and materials to the applications. This approach will simplify the submission of applications seeking the introduction of prior recorded testimony under rule 68(2) of the Rules.

As foreshadowed in annex A to the "Prosecution submission of further information in the Prosecution List of Witnesses and of the Prosecution Final List of Evidence" (ICC-01/12-01/18-805-Conf-AnxA), the Prosecution intends to file rule 68(2) applications for at least 13 witnesses. While the Directions on the Conduct of Proceedings provide that rule 68(2) applications shall be filed together with copies of the relevant material (ICC-01/12-01/18-789-AnxA, para. 79), using hyperlinks instead of annexing copies of the evidence to each rule 68(2) application will simplify proceedings. It will make it unnecessary for CMS to affix a registration number to each item of evidence. Relying on hyperlinks makes the evidence accessible by clicking on a hyperlink that launches each item of evidence in eCourt. No prejudice will be caused to the Accused because the evidence will be accessible through eCourt with all its corresponding metadata.

By e-mail on behalf of the Single Judge of the Chamber dated 28 May 2020 at 13.38, the Prosecution was previously authorised to follow this approach with respect to its rule 68(3) applications, in order to simply their submission.

Following this approach also with respect to the Prosecution's rule 68(2) applications will similarly simplify the submission of these applications.

Respectueusement,
 Gilles Dutertre



Dévouement - Intégrité - Respect
Dedication - Integrity - Respect

Gilles Dutertre

Senior Trial Lawyer / Premier Substitut du Procureur
Prosecution Division
International Criminal Court
Oude Waalsdorperweg 10
2597 AK The Hague, The Netherlands
[REDACTED]

www.icc-cpi.int