

Annex 19

**PUBLIC
REDACTED**

From: Trial Chamber X Communications
Sent: 24 November 2020 10:37
To: [REDACTED] Trial Chamber X Communications; Al Hassan Prosecution Team; D28 Al Hassan Defence Team; V43 Victims Al Hassan Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: RE: Lists of Materials for P-0565 and P-0557

Dear counsel,
 Dear colleagues,

The Chamber takes note of the Defence objections to certain items the Prosecution intends to use during the examination of P-0565.

The Chamber notes the Defence submission that P-0565 cannot authenticate some of the material the Prosecution intends to introduce during her testimony. These are identified in the Defence e-mail as Category A and Category B - objections to videos and photos provided by P-0065, P-0130 and P-0654. The Chamber also notes the Defence objections to two videos (Category C) the Prosecution intends to show to the witness with sound (the Chamber notes that these videos were shown without sound during the witnesses preparation session). In relation to the Categories A, B and C above, the Defence also objects to the use of their respective translations/transcripts (identified as Category D in the Defence e-mail). The Defence finally objects to the introduction through this witness of one item identified as [REDACTED] (Category E), which it states was not included in the summary of P-0565. The Defence submits that the Prosecution has confirmed *inter partes* it will not use this item in the examination of P-0565.

In relation to the Defence objections to items identified in Categories A and B, and as previously decided by the Chamber (see e-mail decision of 27 October 2020 13:24), the Chamber will not rule on these objections in the abstract. It will be for the Prosecution to attempt to establish the relevance of presenting audio-visual material to P-0565 in court pursuant to paragraph 58 of the Directions on the Conduct of Proceedings (ICC-01/12-01/18-789-AnxA), and for the Chamber to determine at that point, also taking into account any objections raised at that point by the Defence, whether the requirements of the aforesaid provision have been satisfied.

In relation to Category C, and pursuant to the same paragraph 58 of the Directions on the Conduct of Proceedings, the Chamber considers that the videos should be first played without sound to the witness. The Chamber will then decide, depending on the answer provided by the witness as regards her personal knowledge to it, whether it is appropriate to play the video with or without sound.

The above conclusions of the Chamber apply to items identified in Category D, as they are accessories (transcripts and translations) of the material in the aforesaid categories A, B and C.

As regards the item identified in Category E, and given that the Prosecution has confirmed *inter partes* it will not use this item during the examination of P-0565, the Defence objection is moot.

Kind regards,

[REDACTED]
 (on behalf of Trial Chamber X)

From: [REDACTED]
Sent: 23 November 2020 15:32
To: Trial Chamber X Communications; Al Hassan Prosecution Team; D28 Al Hassan Defence Team; V43 Victims Al Hassan Team; Associate Legal Officer-Court Officer
Subject: RE: Lists of Materials for P-0565 and P-0557

Dear Trial Chamber X,

Dear Colleagues,

Pursuant to paragraph 60 of ICC-01/12-01/18-789-AnxA, the Defence hereby provides its objections to the use of the following material with Witness P-0565.

Category A Objections: Photographs and videos provided by Witness [REDACTED] to the Prosecution, which were not shown to Witness [REDACTED] during examination-in-chief

The Prosecution has included a number of photographs and videos in its List of Material which were provided by Witness [REDACTED] to the Prosecution. Witness [REDACTED] was examined over an intensive period from [REDACTED] to [REDACTED] but the Prosecution has not verified the contents of the following items with that witness. The

Prosecution therefore should not be permitted to use this evidence with this witness, who is not the author of any of these items.

This is particularly important, as the Prosecution has indicated that they will seek to submit this evidence through Witness P-0565, even though P-0565 did not produce material and is not in a position to authenticate it.

Tab	Document ID	Title	Type	Main Date	To be submitted as evidence through this witness
5			Photograph/s	21-Jun-12	Yes
6			Photograph/s	21-Jun-12	Yes
7			Photograph/s	21-Jun-12	Yes
8			Photograph/s	21-Jun-12	Yes
27			Audio / Video Material	21-Jun-12	Yes
30			Audio / Video Material	21-Jun-12	Yes
33			Audio / Video Material	21-Jun-12	Yes
36			Audio / Video Material	21-Jun-12	Yes
39			Audio / Video Material	21-Jun-12	Yes
40			Audio / Video Material	21-Jun-12	Yes
44			Audio / Video Material	21-Jun-12	Yes
50			Audio / Video Material	21-Jun-12	Yes
53			Audio / Video Material	21-Jun-12	Yes
54			Audio / Video Material	21-Jun-12	Yes
55			Audio / Video Material	21-Jun-12	Yes
73			Audio / Video Material	20-Jun-12	Yes
76			Audio / Video Material	20-Jun-12	Yes

Category B Objections: Photographs and videos provided by [REDACTED] and [REDACTED] to the Prosecution, who have not yet been verified

The Prosecution has included in its list of material three videos and one photograph provided by [REDACTED] and [REDACTED], who have not yet testified. The Prosecution ought not to be permitted to show this evidence, which has not yet been verified, through Witness P-0565. This is particularly important, as the Prosecution has indicated that they will seek to submit this evidence through Witness P-0565, even though P-0565 did not produce material and is not in a position to authenticate it.

Tab	Document ID	Title	Type	Main Date	To be submitted as evidence through this witness
79	[REDACTED]	[REDACTED]	Audio / Video Material		Yes
82			Audio / Video Material	20-Jun-12	Yes
85			Audio / Video Material	20-Jun-12	Yes
89			Photograph/s	23-Jul-12	Yes

Category C Objections: Videos containing commentary

The Defence objects to the following items if the items are played with sound, as they contain commentary for which the prejudicial nature outweighs any probative value. These items being played without sound is consistent with the Prosecution's practice in the preparation session where the videos were played to the witness without sound (Witness Preparation Log for Witness P-0565, pg. 2). The purported language used by the individuals in the news reports is not an accurate representation of the words in fact spoken in the constituent videos on which the reports were based, so the playing of these items with sound would introduce significant inaccuracy and potentially mislead the witness.

Tab	Document ID	Title	Type	Main Date	To be submitted as evidence through this witness
9	[REDACTED]	[REDACTED]	Audio / Video Material	20-Jun-12	Yes
16			Audio / Video Material	22-Jun-12	Yes

Category D Objections: Transcripts and translations

As a result of the objections to the videos included in Category A, Category B and Category C above, the Defence also objects to the use of the transcripts and translations connected with these videos (Tabs 10, 17-18, 25-26, 28-29, 31-32, 34-35, 37-38, 41, 43, 45-46, 48-49, 51-52, 56-57, 59-60, 62-63, 65-66, 68, 71-72, 74-75, 77-78, 80-81 and 83-84). If the videos are not used with the witness, the necessity for the transcripts and translations will fall away. In particular, in respect of the Category C objections, the transcripts and translations connected with these videos contain the same issue as concerns inaccurate translation of the original sounds in the constituent videos.

Category E Objections: [REDACTED]

The witness did not produce this item. No mention of the item is given in the witness summary (ICC-01/12-01/18-740-Conf-AnxB, pp. 744-745) and the item was not shown to the witness during the preparation session. The Prosecution has confirmed via *inter partes* correspondence that it does not intend to use this item with the witness but in the event that it does, the Defence objects to such use.

Tab	Document ID	Title	Type	Main Date	To be submitted as evidence through this witness
90	[REDACTED]	[REDACTED]			No

Best re

[REDACTED] (on behalf of the Al Hassan Defence)

From: [REDACTED]

Sent: 17 November 2020 10:13

To: Trial Chamber X Communications; Al Hassan Prosecution Team; D28 Al Hassan Defence Team; V43 Victims Al

Hassan Team; Associate Legal Officer-Court Officer

Subject: Lists of Materials for P-0565 and P-0557

Dear Trial Chamber X, Dear Colleagues

The Prosecution attaches revised lists of materials for Witnesses P-0565 and P-0557.

Kind regards



Trial Lawyer

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