

Annex 1

Confidential

From: Trial Chamber X Communications
Sent: 01 April 2021 17:09
To: Taylor, Melinda; D28 Al Hassan Defence Team
Cc: Al Hassan Prosecution Team; V43 Victims Al Hassan Team; Chamber Decisions Communication; Trial Chamber X Communications
Subject: TC X - Decision on Defence request concerning the deadline for its response to Prosecution Application 1408-Conf

Dear Counsel,

The Single Judge notes the Defence request seeking an extension of the deadline for its response to the [REDACTED] application with respect to P-0570 (the 'Application'). The Defence seeks that the response deadline be set to [REDACTED] after disclosure of P-0570's identity, which was effected concurrently with the filing of the Application. Having taken cognisance of the Application (ICC-01/12-01/18-1408-Conf), and recalling the Chamber's prior finding that [REDACTED] (CC-01/12-01/18-741-Red2, para. 25), the Single Judge finds that good cause exist to extend the time limit for responses to the Application. The Single Judge also notes that, [REDACTED] no delay will be caused by an extended deadline for the filing of the relevant responses.

In light of the above, the Single Judge is of the view that the balance reached in the Chamber's initial decision [REDACTED] should prevail. Accordingly, and pursuant to Regulation 35(2) of the Regulations of the Court, the Single Judge grants the below Defence request and sets the deadline for responses to the Application [REDACTED] after disclosure of P-0570's identity or C.O.B. on 21 May 2021.

Kind regards,

On behalf of the Single Judge of Trial Chamber X

From: Taylor, Melinda <mtaylor[REDACTED]>
Sent: 31 March 2021 12:01
To: Trial Chamber X Communications <TrialChamberXCommunications[REDACTED]>; Dutertre, Gilles [REDACTED]
Cc: Al Hassan Prosecution Team <AlHassanProsecutionTeam[REDACTED]>; V43 Victims Al Hassan Team <V43LRVTeam[REDACTED]>; D28 Al Hassan Defence Team <D28AlHassanDefenceTeam[REDACTED]>; Chamber Decisions Communication <ChamberDecisionsCommunication[REDACTED]>
Subject: RE: TC X - Decision on Prosecution urgent email request concerning the disclosure of P-0570's identity

Dear Trial Chamber X, Dear Parties,

The Defence does not object to the principle that the identity of P-0570 should be disclosed at the earliest juncture possible. Nonetheless, given that disclosure is being effected at the same time as the filing of [REDACTED] application, the practical consequence of this ruling is that the Defence will have a very minimal amount of time within which to effectively investigate the factual basis of P-0570's account, prior to the submission of its response. This would be extremely prejudicial if the Chamber were to grant the application, since the Defence would not have a subsequent opportunity to raise issues of fact or credibility through cross-examination. In order to eliminate such prejudice and afford the Defence a full and fair right to be heard as concerns P-0570's testimony [REDACTED], the Defence respectfully requests the Trial Chamber to prolong the deadline for the Defence response, such that it falls [REDACTED]

Kind regards

Melinda Taylor, on behalf of the Al Hassan Defence

From: Trial Chamber X Communications [<mailto:TrialChamberXCommunications>] [REDACTED]
Sent: 31 March 2021 11:48
To: [REDACTED]; Dutertre, Gilles; [REDACTED]
Cc: Trial Chamber X Communications; Al Hassan Prosecution Team; V43 Victims Al Hassan Team; D28 Al Hassan Defence Team; Chamber Decisions Communication
Subject: TC X - Decision on Prosecution urgent email request concerning the disclosure of P-0570's identity

Dear Counsel,

The Single Judge notes that the Chamber recently decided, for another witness whose identity was withheld from the Defence, that disclosure of identity 'at a date which is earlier than what was authorised by the Chamber [...] need not be authorised as such' (ICC-01/12-01/18-1320-Conf, para. 17). In line with this, and consistent with the principles underlying the evidence disclosure protocol – including that redactions should be lifted by the disclosing party at the earliest opportunity, the Single Judge clarifies that no authorisation is warranted and that the Prosecution can disclose P-0570's identity and identifying information when filing its upcoming application pursuant to [REDACTED].

Kind regards,

[REDACTED]
 On behalf of the Single Judge of TC X

From: [REDACTED]
Sent: 31 March 2021 10:23
To: Trial Chamber X Communications <TrialChamberXCommunications>
Cc: Dutertre, Gilles [REDACTED]
 [REDACTED]
Subject: URGENT request to vary authorisation in [REDACTED]

Dear Trial Chamber X,

The Prosecution applies to vary the Chamber's original authorisation [REDACTED]. This is to enable disclosing her identity and identifying information when the Prosecution files [REDACTED] as originally ordered by the Chamber.

By decision of 8 May 2020, the Chamber at the Prosecution's request authorised it [REDACTED]
 [REDACTED] [REDACTED] [REDACTED]

By decision of 14 December 2020, the Single Judge at the Prosecution's request granted an extension of time until 1 April 2021 for the Prosecution to file an application regarding [REDACTED] (e-mail of 14 December 2020 at 08:52).

As the Prosecution will explain in its application [REDACTED]
 [REDACTED]
 [REDACTED]

The Prosecution understands that P-0570's identity and identifying information should be communicated to the Defence when the Prosecution files its [REDACTED] application so as to enable the Defence to meaningfully respond to it.

Given [REDACTED] the Prosecution requests that the Chamber vary its original authorisation [REDACTED] [REDACTED] [REDACTED] [REDACTED], in order

to enable disclosing her identity and identifying information when the Prosecution files its [REDACTED] application, rather than [REDACTED] [REDACTED] as originally ordered by the Chamber.

The Prosecution's [REDACTED] application is due on 1 April 2021. Given the deadline for the Prosecution's [REDACTED] application, the Prosecution respectfully requests that the Chamber vary its authorisation on an urgent basis. The Prosecution sends this e-mail message to the Chamber only pending it granting this request.

Best regards,

[REDACTED]
Trial Lawyer, OTP

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