

# Annex 3

Confidential

**From:** Trial Chamber X Communications  
**Sent:** 12 April 2021 12:56  
**To:** D28 Al Hassan Defence Team  
**Cc:** Al Hassan Prosecution Team; V43 Victims Al Hassan Team; Trial Chamber X Communications; Chamber Decisions Communication  
**Subject:** Decision on Defence request for discrete extension of time and page limit for Article 69(7) Reply

Dear counsel,

Pursuant to Regulation 35(2) and 37(2) of the Regulations of the Court respectively, the Chamber authorises the limited extensions requested by the Defence in relation to its Article 69(7) reply, namely to file today after 16:00, and one additional page.

Kind regards,

[REDACTED], on behalf of Trial Chamber X

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**From:** [REDACTED]  
**Sent:** 12 April 2021 11:46  
**To:** Dutertre, Gilles <[REDACTED]>; Trial Chamber X Communications <TrialChamberXCommunications@icc-jud.org>  
**Cc:** Taylor, Melinda <mtaylor@icc-jud.org>; D28 Al Hassan Defence Team <D28AlHassanDefenceTeam@icc-jud.org>; Al Hassan Prosecution Team <AlHassanProsecutionTeam@icc-jud.org>; V43 Victims Al Hassan Team <V43LRVTeam@icc-jud.org>  
**Subject:** RE: Request for discreet extension of time and page limit for Article 69(7) Reply

Your Honours,  
 Dear Colleagues,

The Prosecution operates under ongoing *proprio motu* disclosure obligations. These ought to have been fulfilled at least when it finally tendered [REDACTED] [REDACTED] [REDACTED]. This is all the more acute since the Defence has repeatedly made clear since 2019 that it considers all Prosecution interactions with [REDACTED] to be highly relevant information in this case. The Defence ought, therefore, to have been afforded the opportunity to respond to this information in response to the Prosecution's Rule 68 request. Instead, as a direct result of the tardy disclosure of this important material, the Defence is being forced to address this in the context of the Article 69(7) litigation.

As such, the Defence submits that this disclosure certainly constitutes exceptional circumstances and thus warrants the discreet extension of just one additional page.

Respectfully,

[REDACTED]  
 Defence for Al Hassan

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**From:** Dutertre, Gilles [[mailto:\[REDACTED\]](#)]  
**Sent:** 12 April 2021 11:31  
**To:** [REDACTED] Trial Chamber X Communications  
**Cc:** Taylor, Melinda; D28 Al Hassan Defence Team; Al Hassan Prosecution Team; V43 Victims Al Hassan Team  
**Subject:** RE: Request for discreet extension of time and page limit for Article 69(7) Reply

Dear Trial Chamber X,

The Prosecution does not oppose the Defence request to file its Reply to Prosecution Response to Defence Article 69(7) Application (ICC-01/12-01/18-1401-Conf) ('Reply') after 16:00 today.

However, in the Prosecution's submission the Defence does not demonstrate that an extension of the applicable page limit is justified for its Reply.

In its email decision of 31 March 2021 at 12:01, the Chamber determined "[h]aving regard to the content of the filings already on the record, [...] that pursuant to Regulation 37 of the Regulations, any such reply should be limited to 10 pages."

The Defence does not demonstrate that there are "exceptional circumstances" pursuant to regulation 37(2) of the Regulations of the Court for an extension of this page limit. As directed by the Chamber, the Defence reply should be limited to new issues raised in the response which the Defence could not reasonably have anticipated. The Defence does not substantiate its argument "that addressing matters arising from this disclosure be considered additional to the scope of its Reply", given that the Defence request for disclosure relating to [REDACTED] and in its response, the Prosecution indicated that it was in the process of addressing it [REDACTED].

The Defence does not otherwise demonstrate exceptional circumstances necessitating an extension of the page limit to "accommodate necessary arguments arising from this disclosure". For these reasons, its request for an extension of the page limit should be denied.

Best regards,

Gilles Dutertre

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**From:** [REDACTED]  
**Sent:** 12 April 2021 10:45  
**To:** Trial Chamber X Communications <[TrialChamberXCommunications](#)>  
**Cc:** Taylor, Melinda <[mtaylor](#)>; Dutertre, Gilles <[REDACTED]>; D28 Al Hassan Defence Team <[D28AlHassanDefenceTeam](#)>; Al Hassan Prosecution Team <[AlHassanProsecutionTeam](#)>; V43 Victims Al Hassan Team <[V43LRVTeam](#)>  
**Subject:** Request for discreet extension of time and page limit for Article 69(7) Reply

Your Honours,  
 Dear Colleagues,

Pursuant to repeated Defence requests, the Prosecution disclosed documents highly relevant to the Defence's Article 69(7) litigation only at 16.02 on 08 April 2021 and at 17.36 on 09 April 2021. These five documents relate to [REDACTED]. This material ought properly to have been disclosed well in advance of the Defence's Article 69(7) Application. The correspondence disclosed dates to February and March 2020 [REDACTED] though it discusses earlier matters. The later correspondence ([REDACTED]), dated 07 and 08 April 2021, relates to this also.

The Defence must now address the issues arising from this very recent disclosure at the final stage of its preparation of its Reply to Prosecution Response to Defence Article 69(7) Application (ICC-01/12-01/18-1401-Conf) ('Reply'), and within the confines of its 10 page limit. The Defence submits that the interests of fairness recommend that addressing matters arising from this disclosure be considered additional to the scope of its Reply, and should not consume the limited time and space afforded accordingly.

Pursuant to Regulation 35, the Defence submits that there is therefore good cause to extend the time limit to after 16:00 today, 12 April 2021, and to allow the Defence one additional page. This will not prejudice the Prosecution in any way, nor slow the proceedings.

In order to accommodate necessary arguments arising from this disclosure, the Defence therefore requests:

- (i) that it be permitted to file its Reply after 16:00 today; and

(ii) that it be afforded one additional page such that its page limit extends to 11 pages.

Respectfully,



Defence for Al Hassan

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