

Annex 12

Confidential

From: Trial Chamber X Communications
Sent: 16 July 2021 09:52
To: Chamber Decisions Communication
Subject: FW: Urgent Defence Regulation 35 Request to add item to List of Material

From: Trial Chamber X Communications <[REDACTED]>
Sent: 16 July 2021 09:52
To: Dutertre, Gilles <[REDACTED]>; Taylor, Melinda <[REDACTED]>; Trial Chamber X Communications <[REDACTED]>; Al Hassan Prosecution Team <[REDACTED]>; V43 Victims Al Hassan Team <[REDACTED]>; Associate Legal Officer-Court Officer <[REDACTED]>;
Cc: D28 Al Hassan Defence Team <[REDACTED]>
Subject: RE: Urgent Defence Regulation 35 Request to add item to List of Material

Dear counsel,
 Dear colleagues,

The Single Judge notes the Defence request to add one item to its list of material [REDACTED]. Although the Single Judge acknowledges that cross-examination is a reactive exercise that needs to be adjusted after the examination-in-chief, she also observes that the Defence has already been examining this witness for [REDACTED] days (and almost [REDACTED] hours). The Single Judge also notes that the Prosecution touched upon this topic at the start of its examination-in-chief [REDACTED]. She further observes the Defence has touched upon the topic [REDACTED] already twice in its cross-examination [REDACTED]. Also from the questions posed to the witness on this subject yesterday, it is clear the Defence was well aware of the existence of this video at that time and could have addressed the subject in a fulsome way at that time. Accordingly, the Single Judge considers the Defence has failed to show any good cause for this unjustified delay.

Nonetheless, the Single Judge notes that the video is already formally submitted on the record [REDACTED]. Also, as noted by the Defence, the video emanates from the Prosecution. The Single Judge also notes the Prosecution does not oppose the Defence request.

Accordingly, the Single Judge grants the request and authorises the Defence to add video [REDACTED] to its list of material [REDACTED]. However, if the Defence uses the video with the witness, in light of the repetitive nature of the questioning, the Chamber expects that it will be presented to the witness fairly and that any questions posed will be succinct and fair.

Kind regards,

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

From: Dutertre, Gilles <[REDACTED]>
Sent: 16 July 2021 08:45
To: Taylor, Melinda <[REDACTED]>; Trial Chamber X Communications <[REDACTED]>; Al Hassan Prosecution Team <[REDACTED]>; V43 Victims Al Hassan Team <[REDACTED]>; Associate Legal Officer-Court Officer <[REDACTED]>

Cc: D28 Al Hassan Defence Team [REDACTED] >
Subject: RE: Urgent Defence Regulation 35 Request to add item to List of Material

Chère Chambre de Première Instance X,
 L'Accusation ne s'oppose.
 Respectueusement,
 Gilles Dutertre

Dévouement - Intégrité - Respect
 Dedication - Integrity - Respect

From: Taylor, Melinda [REDACTED]
Sent: 16 July 2021 08:25
To: Trial Chamber X Communications; Dutertre, Gilles; [REDACTED]; Al Hassan Prosecution Team; V43 Victims Al Hassan Team; Associate Legal Officer-Court Officer; [REDACTED]
Cc: D28 Al Hassan Defence Team
Subject: Urgent Defence Regulation 35 Request to add item to List of Material

Dear Trial Chamber X,

The Defence respectfully requests leave to add one video to its list, namely the video [REDACTED]. This item has already been submitted into evidence, having been used by the Prosecution [REDACTED]. The video is part of a series of videos [REDACTED] that have been shown to [REDACTED] by the Prosecution as concerns the events at [REDACTED]. Given that the items emanates from the Prosecution and is already in evidence, no prejudice would arise to the Prosecution.

The Defence is grateful for the Chamber's consideration of this request.

Kind regards
 Melinda Taylor on behalf of the Al Hassan Defence

From: Trial Chamber X Communications [REDACTED]
Sent: 15 July 2021 18:52
To: Dutertre, Gilles; [REDACTED]; Trial Chamber X Communications; Al Hassan Prosecution Team; V43 Victims Al Hassan Team; Associate Legal Officer-Court Officer; [REDACTED]
Cc: D28 Al Hassan Defence Team
Subject: RE: Defence Regulation 35 Request to add item to List of Material

Dear colleagues,
 Dear counsel,

The Single Judge notes the Defence request to add one item to its list of material [REDACTED]. She also notes the Prosecution does not object. Accordingly, the Defence request pursuant to Regulation 35 of the Regulations of the Court is granted.

Kind regards,

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

From: Dutertre, Gilles <[REDACTED]>
Sent: 15 July 2021 17:15
To: [REDACTED]; Trial Chamber X Communications <[REDACTED]>
 [REDACTED]; Al Hassan Prosecution Team [REDACTED]; V43 Victims Al Hassan Team
 <[REDACTED]>; Associate Legal Officer-Court Officer <[REDACTED]>;

>
Cc: D28 Al Hassan Defence Team <
Subject: RE: Defence Regulation 35 Request to add item to List of Material

Chère Chambre de Première Instance X,
 L'accusation s'en remet.
 Respectueusement,
 Gilles Dutertre

Dévouement - Intégrité - Respect
 Dedication - Integrity - Respect

From:
Sent: 15 July 2021 16:36
To: Trial Chamber X Communications; Al Hassan Prosecution Team; V43 Victims Al Hassan Team; Associate Legal Officer-Court Officer;
Cc: D28 Al Hassan Defence Team
Subject: Defence Regulation 35 Request to add item to List of Material

Honourable Trial Chamber X,

The Defence respectfully requests permission, in accordance with Regulation 35 of the Regulations of the Court, to add [REDACTED] to the Defence List of Material to be used with Witness [REDACTED]. The video offers a panoramic view of the entrance to Tombouctou Airport. Whereas the video in question is 16min 04 sec in length, the Defence would only be using the first 40 seconds and will not require it to be played with sound.

[REDACTED]
 [REDACTED] the Defence maintains no prejudice is caused to the Prosecution. Moreover, the item in question has been in the possession of the Prosecution since February 2014 and is in fact Prosecution evidence. As [REDACTED] would provide further clarity to the Chamber as to the physical environment surrounding Tombouctou Airport's entrance [REDACTED], there is good cause to permit its addition to the List of Material.

Respectfully,

[REDACTED]
 Case Manager
 Defence (Al Hassan)
 Ext.: [REDACTED]

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