

Annex 24

Public

From: Trial Chamber X Communications
Sent: 30 August 2021 13:42
To: Al Hassan Prosecution Team; D28 Al Hassan Defence Team; V43 Victims Al Hassan Team (V43LRVTeam [REDACTED]); VWS Legal
Cc: Trial Chamber X Communications; Chamber Decisions Communication
Subject: TC X: Single Judge directions on the use of private sessions, including with P-0603

Dear Counsel,

The Single Judge expects the parties to make the greatest effort to elicit P-0603's evidence in public session, especially where it is only the basis of her knowledge which could be identifying. As noted below in the Prosecution's email, this may be the case of the place from where she witnessed certain events or, for example, her link or relationship with certain individuals. Beyond that, and in line with the Chamber's instructions in the Fourth Decision on matters related to the conduct of proceedings (ICC-01/12-01/18-1265, paras 12-16), the description of most events and incidents expected to be narrated by P-0603 should be given in public session with *only those details which are identifying* in private sessions. The Single Judge stresses the Chamber's instruction that, in this context, identifying information should be construed narrowly. Accordingly, the questioning of P-0603 [REDACTED]
[REDACTED]
[REDACTED]

The Single Judge also considers it necessary to reiterate the Chamber's prior instruction that Counsel should 'endeavour to reduce the time spent in private session by restricting the exploration of personal information and circumstances of a witness to that which is strictly necessary and demonstrably relevant to the issues in the case or the credibility of the witness' (ICC-01/12-01/18-1265, para. 14). Avoiding unnecessary use of private sessions is essential to ensure the publicity of the trial via access to live hearings. This cannot simply be replaced by subsequent preparation of lesser redacted versions of public transcripts of such hearings or by having the witness affirm part of the testimony given in private session in open session.

Accordingly, for P-0603, as well as upcoming protected witnesses, the Chamber is expecting Counsel to seek to obtain necessary confidential information in private session and immediately request moving back to open session, where questioning should be conducted referring to information which can be made available to the public or be referred to using non-identifying expressions.

In this regard, the Single Judge emphasises that it is for the Chamber to determine if evidence will be given in public or private sessions. While the parties may request private sessions, they must be prepared to justify why certain evidence must remain confidential. Furthermore, the Single Judge stresses that Counsel may not delegate the power to seek private session to a witness. The concept of private sessions should be explained to witnesses in the preparation sessions, but witnesses should not be invited or encouraged to ask the Chamber to go into private session. A witness may do so of his or her own initiative but this practice should not be encouraged by the parties during or outside court sessions.

Kind regards,

On behalf of the Single Judge of Trial Chamber X

From: Dutertre, Gilles [REDACTED] >
Sent: 26 August 2021 14:51
To: Trial Chamber X Communications <TrialChamberXCommunications [REDACTED]>
Cc: D28 Al Hassan Defence Team <D28AlHassanDefenceTeam [REDACTED]>; V43 Victims Al Hassan Team (V43LRVTeam [REDACTED]) <V43LRVTeam [REDACTED]>; Al Hassan Prosecution Team <AlHassanProsecutionTeam [REDACTED]>; VWS Legal <VWS_Legal [REDACTED]>

[REDACTED]

Subject: P-0603 summary with highlights

Dear Trial Chamber X and Colleagues,

Please find attached Witness P-0603 Witness Summary with the relevant highlights.

Further, the Prosecution would like to note that for certain details related to P-0603's narrative, which are identifying, we would be requesting private sessions such as for

-) the place from where she witnessed certain events (from the place [REDACTED])
-) how she knew certain victims,
-) the basis of her knowledge a.o. in relation to what happened [REDACTED]
-) the fact that she was [REDACTED]
-) certain details on [REDACTED]

With regard to the list of documents at the bottom of the Witness Summary, the Prosecution only highlighted the confidential pictures that are included in P-0603's list of materials. [REDACTED]

[REDACTED] are not on the list of materials.

Best regards,

Gilles Dutertre