

ANNEX 12
PUBLIC REDACTED

From: Trial Chamber X Communications
Sent: 18 May 2022 15:31
To: Al Hassan Prosecution Team; D28 Al Hassan Defence Team; V43 Victims Al Hassan Team
Cc: Associate Legal Officer-Court Officer; Trial Chamber X Communications; Chamber Decisions Communication
Subject: TC X - Decision on Defence Regulation 35(2) request concerning items related to D-0025

Dear counsels,

The Single Judge notes the below Defence request pursuant to Regulation 35(2) of the Regulations to add seven items to its list of evidence, these being six contemporaneous notes taken by D-0025 during her interview with the accused and one related email concerning the appointment of an interpreter (the 'Items'). Noting the reasons provided for their late addition, and considering in particular that the Items may assist in the Prosecution's preparation and in the Chamber's assessment and understanding of D-0025's upcoming testimony, the Single Judge is satisfied that it is in the interest of justice to authorise the late addition of the Items to the Defence's list of evidence. Noting their nature and that the Prosecution will be able to raise any related issues during the course of D-0025's testimony, if it so wishes, the Single Judge is satisfied that no undue prejudice arises from the late addition of the Items. The request is accordingly granted.

Kind regards

The Single Judge of Trial Chamber X

From: Taylor, Melinda [REDACTED]
Sent: 17 May 2022 15:18
To: Trial Chamber X Communications <[REDACTED]>
Cc: Associate Legal Officer-Court Officer [REDACTED] Al Hassan Prosecution Team [REDACTED]; V43 Victims Al Hassan Team [REDACTED] D28 Al Hassan Defence Team [REDACTED]
Subject: Reg 35(2) request concerning items related to Dr Cohen

Dear Trial Chamber X, Dear Colleagues,

The Defence hereby seeks authorisation to add items to its list of evidence, which are directly relevant to the expert testimony of D-0025 (Dr Juliet Cohen).

During the course of D-0020's testimony (and during *inter partes* discussions), the Prosecution raised issues concerning the qualifications of the person who interpreted for Dr Porterfield during her in person evaluation of Mr Al Hassan and further questioned Dr Porterfield as concerns whether the narrative component of her report was based on this in-person evaluation or extrinsic sources.

Following the conclusion of Dr Porterfield's testimony, the Defence contacted Dr Cohen to inquire as to whether she would be willing to provide the Defence with any contemporaneous notes that were taken during the course of her in person evaluation of Mr Al Hassan. These notes were stamped and disclosed today:

MLI-D28-0006-4844-R01, MLI-D28-0006-4847-R01, MLI-D28-0006-4851-R01

MLI-D28-0006-4855, MLI-D28-0006-4860, MLI-D28-0006-4865

The Defence further disclosed a redacted email concerning the appointment of a Registry interpreter, who was assigned by the Registry to interpret for Dr Cohen between English and Arabic during her in person examination (MLI-D28-0006-4840).

The Defence submits that there is good cause to add the notes to its list of evidence. The Defence did not have possession of these notes until today. The Defence had not sought access to Dr Cohen's personal notes previously as Dr Cohen had indicated that she had incorporated all relevant information into her report. Nonetheless, in light of the suggestion, put to Dr Porterfield, that information in expert reports could derive from other sources, it would be in the interests of justice, and consistent with the Chamber's truth-seeking functions for the Defence to raise this issue with Dr Cohen, by reference to her original notes.

As concerns the email concerning the appointment of the interpreter, the Defence had not anticipated this line of questioning when it finalized its list of evidence. Since the issue arises from questions raised by the Prosecution, the Prosecution is not prejudiced as it now has at its disposal information that it would otherwise have sought to obtain through cross-examination.

Kind regards

Melinda Taylor, on behalf of the Al Hassan Defence

size=2 width="100%" align=center>

This message contains information that may be privileged or confidential and is the property of the International Criminal Court. It is intended only for the person to whom it is addressed. If you are not the intended recipient, you are not authorized by the owner of the information to read, print, retain copy, disseminate, distribute, or use this message or any part hereof. If you receive this message in error, please notify the sender immediately and delete this message and all copies hereof.

Les informations contenues dans ce message peuvent être confidentielles ou soumises au secret professionnel et elles sont la propriété de la Cour pénale internationale. Ce message n'est destiné qu'à la personne à laquelle il est adressé. Si vous n'êtes pas le destinataire voulu, le propriétaire des informations ne vous autorise pas à lire, imprimer, copier, diffuser, distribuer ou utiliser ce message, pas même en partie. Si vous avez reçu ce message par erreur, veuillez prévenir l'expéditeur immédiatement et effacer ce message et toutes les copies qui en auraient été faites.