

ANNEX 4

PUBLIC REDACTED

From: Trial Chamber X Communications
Sent: 04 May 2022 07:34
To: Al Hassan Prosecution Team; V43 Victims Al Hassan Team; D28 Al Hassan Defence Team
Cc: Chamber Decisions Communication; Trial Chamber X Communications
Subject: TC X: Single Judge decision on Defence request to amend Exhibit List

Dear Counsels,

The Single Judge notes the below Defence request submitted pursuant to Regulation 35 of the Regulations of the Court (email of 2 May 2022 at 14:11), which is not opposed by the Prosecution (email of 2 May 2022 at 15:24).

Having considered the relevant legal framework (see decision 988, paragraph 6), the Single Judge first notes that the requirements of Regulation 35 do not appear to have been met with respect to the three items sought to be added to the Defence's List of Evidence. Nonetheless, the Single Judge finds that granting the request is in interest of justice and will also assist in ensuring the publicity of the next stage of the trial proceedings. Furthermore, the Single Judges agrees with the Defence that granting the request would cause no delay in the proceedings and no prejudice to the Prosecution.

The Single Judge hereby grants this request and authorises the addition of the three items to the Defence's List of Evidence.

Kind regards,
 On behalf of the Single Judge of Trial Chamber X

From: Dutertre, Gilles [REDACTED]
Sent: 02 May 2022 15:24
To: Trial Chamber X Communications [REDACTED]; Al Hassan Prosecution Team [REDACTED]; V43 Victims Al Hassan Team [REDACTED]
Cc: D28 Al Hassan Defence Team [REDACTED] Chamber Decisions Communication <[REDACTED]>
Subject: RE: TC X: Single Judge decision shortening deadline for responses to Defence request to amend Exhibit List

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

From: Trial Chamber X Communications <[REDACTED]>
Sent: lundi 2 mai 2022 14:48
To: Al Hassan Prosecution Team [REDACTED]; V43 Victims Al Hassan Team [REDACTED]

Subject: TC X: Single Judge decision shortening deadline for responses to Defence request to amend Exhibit List

Dear Counsels,
 The Single Judge hereby sets to C.O.B on Wednesday 4 May 2022 the deadline for any response to the below request.
 Kind regards,
 On behalf of the Single Judge of Trial Chamber X

From: [REDACTED]
Sent: 02 May 2022 14:11
To: Trial Chamber X Communications <[REDACTED]>; Al Hassan Prosecution Team <[REDACTED]>; V43 Victims Al Hassan Team [REDACTED]

Cc: D28 Al Hassan Defence Team <[REDACTED]>
Subject: Request to amend Exhibit List

Dear Trial Chamber X,

Pursuant to Regulation 35 of the Regulations of the Court, the Defence respectfully requests leave to amend its Exhibit List to include MLI-D28-0006-4465 Orphans of the Sahara - Episode 1 the Return; MLI-D28-0006-4468 Documentary: TESHUMARA (Tinariwen) - The guitars of the Touareg rebellion; and MLI-D28-0006-4466 Twitter - Archives 1990.

These documents are relevant and probative and of cumulative or corroborative nature. They are limited to evidence of issues in the case that are not materially in dispute. The Defence submits that it is also in the interest of justice and determination of the truth to grant the addition sought, and that it will cause no delay in the proceedings and no prejudice to the Prosecution. The addition of these items will also facilitate the ability of the Defence to present the main issues underpinning its case, in open session, during the opening statements (thus avoiding the need to refer to confidential witness statements).

Document MLI-D28-0006-4465 is the first part of a documentary for which the Prosecution only disclosed and used parts 2 and 3. Even though mostly about Niger, it also features important content that is relevant to events in Mali. The Defence has identified as relevant, extracts from 13:00–23:33 and 35:40–36:50. The Defence also submits that it contains content of interviews with persons that are not duplicated in episode 2 (see minutes 15:35–16:38; 17:39–18:28; 18:54–19:28; 20:13–21:21). For example, it would appear that an extended interview with Bilal Ag Cherif has been inserted into the different episodes: the part in episode 1 is therefore necessary to understand and contextualise the continuation of the interview in episode 2. The addition of document MLI-D28-0006-4465 to the Defence exhibit list is not prejudicial to the OTP as it is an open-source document, which the Prosecution has knowledge of. Indeed, given the linkages between episodes 2 and 3, the Prosecution should have disclosed the entire series, rather than simply cherry picking information from the series.

Document MLI-D28-0006-4468 is a documentary on Tinariwen group about the Tuareg rebellion, for which relevant time stamps are 19.40-21.48. It features an interview with Cheick ag Aoussa, who was later an Ansar Dine leader. This document is cumulative to the information set out in MLI-OTP-0078-3408 at MLI-OTP-0078-3418, an article which was disclosed by the Prosecution, included on the Prosecution's list of evidence and cited in P-0152's report. The use of this extract will allow the Defence to more easily convey information in the format of an opening statement.

Document MLI-D28-0006-4466 is the Twitter post featuring together persons of interests in this case, and related to **MLI-D28-0006-4468**. It speaks to the perception of Iyad Ag Ghali's role and position in the Tuareg community, based on his activities and affiliations in the years prior to 2012.

These limited addition to the Defence exhibit list are focused items, supplementing documents already on the Defence or Prosecution exhibit lists. They are of sufficient importance to justify their addition to the Exhibit List, particularly as the Defence case has not started yet. They provide further evidence related to the circumstances of the events, and are therefore in the interest of justice as they provide a more complete and comprehensive understanding of relevant charges against Mr Al Hassan. Moreover, these open-source materials will avoid having to cite to confidential witness testimonies in Court.

Kind regards,

[REDACTED] on behalf of the Al Hassan Defence

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