

Annex I

Public

From: Trial Chamber X Communications
Sent: 16 March 2021 08:22
To: Al Hassan Prosecution Team; D28 Al Hassan Defence Team
(D28AlHassanDefenceTeam [REDACTED]); V43 Victims Al Hassan Team
Cc: Trial Chamber X Communications; Associate Legal Officer-Court Officer; FS Items
Communication
Subject: Decision on submitted material for P-0160
Attachments: Prosecution Reply P-0160.pdf; Prosecution Response P-0160.pdf; Prosecution
Submission P-0160.pdf; Prosecution List P-0160.pdf; Defence Response P-0160.pdf;
Defence Submission P-0160.pdf

Dear counsel,
Dear colleagues,

The Chamber notes the submission of items by the Prosecution (Email from the Prosecution dated 4 March 2021 at 17:49 and corresponding attachment), as well as by the Defence (Email from the Defence dated 4 March 2021 at 16:15) following the testimony of P-0160.

The Chamber takes note of the parties' response to the submission of items by the other party (Email from the Prosecution dated 6 March 2021 at 16:14 and email from the Defence dated 9 March 2021 at 19:40) as well as the Prosecution's reply to the objections raised by the Defence (Email from the Prosecution dated 10 March 2021 at 16:35).

The Prosecution seeks to submit MLI-OTP-0049-0752 (page 0752 only) and MLI-OTP-0039-0920 through witness P-0160.

The Defence objects to the submission of these items, contesting their reliability on the basis that: (i) the information relied upon in these documents derives from sources who were not impartial; (ii) the items are third party documentary evidence of the accounts of other individuals; (iii) the items lack contemporaneousness; (iv) the items were prepared by individuals who would have had a vested interest in providing accounts likely to enable them to access resources dedicated to assisting victims; (v) there are no adequate means of evaluating this evidence, particularly in the context of anonymous hearsay; and (vi) MLI-OTP-0049-0752 lacks direct linkage with Ansar Dine. In line with its previous decisions, the Chamber considers that the arguments raised by the Defence does not prevent the submission of these items at this stage. The Chamber will consider the relevance and probative value of these items as part of the holistic assessment of all evidence submitted when deciding on the guilt or innocence of the accused, having due regard to the submissions made by the parties.

Further, the Chamber is satisfied that these items were used or discussed in a broad sense with P-0160 and accordingly recognises their formal submission.

For the sake of practicality the Chamber considers it more appropriate to authorise the submission of MLI-OTP-0049-0752 in its entirety. Obviously in assessing the evidence the Chamber would only consider page 0752.

The Defence seeks to submit ten items through P-0160. While noting that it does not agree with the analysis of the evidentiary items as advanced by the Defence, the Prosecution does not object to the submission of these items. The Chamber is satisfied that these ten items were used or discussed in a broad sense with P-0160 and accordingly recognises their formal submission.

The Registry is directed to proceed in accordance with paragraph 34(vi) of the Directions on the conduct of the proceedings (ICC-01/12-01/18-789-AnxA).

Kind regards,

[REDACTED]
On behalf of Trial Chamber X