

ANNEX 9

PUBLIC REDACTED

From: Trial Chamber X Communications
Sent: 09 May 2022 19:36
To: D28 Al Hassan Defence Team; Al Hassan Prosecution Team; V43 Victims Al Hassan Team
Cc: Trial Chamber X Communications; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: TC X: Decision on Defence requests related to the list of material for D-0020
Attachments: FW: TC X : Single Judge instructions on the preparation of public versions of email rulings and relevant reclassifications

Dear counsel

The Single Judge notes the Defence's request pursuant to Regulation 35(2) to add the items described in its email below to its list of evidence and list of items for use with D-0020. It is noted that these items generally relate to corrections of translations following issues raised by the Prosecution on 7 May 2022. Having considered the details of the request and the technical nature of the issues at stake, the Single Judge is satisfied that there is good cause to add the items and that they were not added to the list by the original disclosure deadline for reasons outside of the Defence's control.

The Single Judge accordingly grants this request, together with the related Defence request for the VWU to provide the below mentioned corrections document to D-0020. The Defence is directed to liaise directly with the VWU to arrange this.

The Single Judge does not consider that 10 minutes of additional time is warranted for examination in chief to address this matter and accordingly the Defence request in this regard is rejected.

Kind regards

On behalf of the Single Judge of Trial Chamber X

From: [REDACTED]
Sent: 09 May 2022 12:06
To: Dutertre, Gilles [REDACTED]; Taylor, Melinda [REDACTED]; Trial Chamber X Communications [REDACTED]; Al Hassan Prosecution Team [REDACTED]
 <[REDACTED]> V43 Victims Al Hassan Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED]; [REDACTED]
Cc: D28 Al Hassan Defence Team [REDACTED]
Subject: RE: Defence list of material for Witness D-0020

Dear Trial Chamber X,

Dear all,

Following the below email from the Prosecution, during the preparation session with witness D-0020 the Defence went through the corrections for the following transcripts MLI-OTP-0051-1233; MLI-OTP-0051-1257; MLI-OTP-0051-1032; MLI-OTP-0051-1124; MLI-OTP-0051-0376; MLI-OTP-0051-0457; MLI-OTP-0051-0483; MLI-OTP-0051-0513; MLI-OTP-0051-0537; MLI-OTP-0051-0557; MLI-OTP-0051-0571; MLI-OTP-0051-0598; MLI-OTP-0051-0658; MLI-OTP-0051-0658; MLI-OTP-0051-0798; MLI-OTP-0051-0891; MLI-OTP-0060-1289; MLI-OTP-0060-1374; MLI-OTP-0060-1791; MLI-OTP-0062-0969; MLI-OTP-0062-1014; MLI-OTP-0062-1268. These documents were printed, used with the witness and annotated and the Defence respectfully requests to **add them to its list of exhibits (MLI-D28-0006-4477)**.

As indicated in the witness preparation log, the Defence asked the Witness if all categories of corrections were relevant to her, to which the Witness indicated that only the corrections pertaining to the procedure followed by the interviewers, and discussions related to consensual nature of exchanges were relevant for her expertise.

The Defence identified for each transcripts the relevant parts and all corrections made were translated to the Witness from French and Arabic to English. The Witness identified as relevant a number of extracts, listed in the witness preparation log (in MLI-OTP-0051-1233, p.1240, l.223-224; p.1246, l.430-431; in MLI-OTP-0051-0457, p.0459, l.37-338; in MLI-OTP-0051-0557, p.0570, l.412; in MLI-OTP-0051-0798, p.0807, l.302-303; in MLI-OTP-0060-1791, p.1806, l.505-506; p. 1808, l.577-578; in MLI-OTP-0062-1014, p.1015, l.30-3; in MLI-OTP-0060-1289, p.1293, l.125; in MLI-OTP-0062-0969, p.0970, l.20; p.0971, l.35-36; in MLI-OTP-0062-1268, p.1270, l.38-39; p.1272, l.105-106; p.1274, l.191; p.1281, l.441-442; and in MLI-OTP-0060-1374, p.1376, l.59-60; p.1379, l.148-149.)

The Defence respectfully requests the Trial Chamber to provide a document to Witness D-0020 with these relevant extracts, correctly translated, and in context (including a few paragraphs before and after). As the cut-off date with Witness D-0020 is already happened, the Defence asks that this document be transmitted to the witness through VWU.

The Defence also respectfully requests that this document, containing the relevant corrections in context for witness D-0020, be **added to its list of exhibits (MLI TBD)**.

The Defence submits that the documents listed at the end of the witness preparation log, which all concern the same issue, should also be **added to its list of exhibits** for sake of accuracy and comprehensiveness. They are:

- Index containing the MLI reference numbers of Mr Al Hassan's statements (**MLI-D28-0006-4567**);
- Index concerning MLI references in order of BSQs (**MLI-D28-0006-4572**);
- Combined Extracts from Al Hassan's statement (**MLI-D28-0006-4573**).

These documents are not new documents. The two indexes merely list MLI references of Al Hassan's witness statements. The combined extracts translated from Al Hassan's statement, is an amalgam of extracts that were previously disclosed to the witness, but put chronologically for the witness's better understanding.

Furthermore, the Defence would also like to **add to its list of exhibits** the better copy of document MLI-D28-0003-1696, also mentioned in the witness preparation log, and document already in the possession of the parties (**MLI-D28-0006-4522**).

This request is made pursuant to Regulation 35(2) of the Regulations of the Court, and the Defence submits that they were not added to the list by the original disclosure deadline for reasons outside of the Defence's control, due to the fact that the Prosecution raised these issues very late and close to Witness D-0020's planned testimony date.

The Defence also requests that all these documents be added to its list of documents for examination of Witness D-0020 (annotated corrected transcripts; better copy of MLI-D28-0003-1696; two indexes; combined extracts from Al Hassan's statement; and document containing the relevant corrections in context: The documents used with Witness D-0020 (**MLI-D28-0006-4477**; **MLI-D28-0006-4522**; **MLI-D28-0006-4567**; **MLI-D28-0006-4572**; **MLI-D28-0006-4573**; **MLI TBD**.)

Finally, the Defence respectfully requests to be granted **10 additional minutes to its examination of Witness D-0020** to be able to go through these issues with the witness and discuss any relevance to her methodology.

Kind regards,

on behalf of the Al Hassan Defence

From: Dutertre, Gilles [REDACTED]
Sent: 08 May 2022 15:33
To: Taylor, Melinda [REDACTED]; Trial Chamber X Communications <[REDACTED]> Al Hassan Prosecution Team [REDACTED] V43 Victims Al Hassan Team [REDACTED] Associate Legal Officer-Court Office [REDACTED]
Cc: D28 Al Hassan Defence Team [REDACTED]
Subject: RE: Defence list of material for Witness D-0020

Chere Madame Taylor,
 Vous avez les references precises ci-dessous.
 Cordialement,
 Gilles Dutertre

From: Taylor, Melinda [REDACTED]
Sent: 07 May 2022 15:48
To: Dutertre, Gilles [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: Defence list of material for Witness D-0020

Dear Mr Duterte,

As concerns the alleged errors of translation, could you please send us the specific words/phrases that you consider to be incorrectly translated so that we can immediately transmit such corrections to D-0020?

Thank you for your assistance.

Kind regards
Melinda Taylor

From: Duterte, Gilles

Sent: 07 May 2022 12:39

To: 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 [REDACTED]

Subject: RE: Defence list of material for Witness D-0020

Chère Chambre de Première Instance X,

L'Accusation entend d'ores et déjà souligner divers problèmes concernant la fiabilité et la rigueur de la traduction MLI-D28-0006-4330, communiquée très récemment et listée en 8ème position dans la *Defence list of evidence – Witness D-0020*.

En effet :

- Il est impossible de déterminer qui (une ou plusieurs personnes) a fait cette traduction vers l'anglais *i.e.* il n'apparaît pas que cela provient de/d'un traducteur(s) professionnel(s) ayant les compétences nécessaires et certifiées : c'est une question de fiabilité ;
- Cette traduction MLI-D28-0006-4330 ne comporte pas de *cross-referencing* précis dans le corps-même du texte aux pages et lignes des transcrits originaux de Mr Al Hassan. Seules des références générales sont données en début de traductions. Cela rend toute lecture difficile et toute vérification/comparaison aléatoire et chronophage : c'est également une question de fiabilité ;
- Cette traduction ne prend pas en compte des corrections faites par l'Accusation dans les passages (interprétés) en français dans les transcrits originaux de l'interview de Mr Al Hassan (corrections faites sur la base des propos tenus par Monsieur Al Hassan en arabe) et dûment disclosées en son temps : il en découle un problème d'accuracy de la traduction de la défense.

Exemples non exhaustifs:

- à MLI-D28-0006-4330, p.4343, correspondant à l'original MLI-OTP-0051-1032, p. 1032_01 et 0051-1032_02 et p.1041, l.285 mentionnant en arabe la prison du tribunal, de la police et de la *Hesbah* alors que le terme « police

» n'était pas reflété dans l'interprétation vers le français, ce qui a été ensuite corrigé par l'Accusation mais non pris en compte dans la traduction de la Défense ;

- à MLI-D28-0006-4330, p.4344, correspondant à l'original MLI-OTP-0051-1032, p. 1032_01 et 0051-1032_02 et p.1044, l.391 ; ou encore
- à MLI-D28-0006-4330, p.4346, correspondant à l'original MLI-OTP-0051-1032, p. 1032_01 et 0051-1032_02 et p.1049, l.561-564.

- On constate enfin diverses erreurs de traduction.

Exemples non exhaustifs :

- à MLI-D28-0006-4330, p.4345, voir l'original MLI-OTP-0051-1032, p.1046, l.465.
- à MLI-D28-0006-4330, p.4343, voir l'original MLI-OTP-0051-1032, p.1041, l.294-295.
- à MLI-D28-0006-4330, p.4345, voir l'original MLI-OTP-0051-1032, p.1047, l.489-493.

- Cette traduction cumule parfois plusieurs questions posées et met une seule réponse de Mr Al Hassan : il s'agit à nouveau d'une question de rigueur qui affecte là encore la fiabilité de ce document.

Voir entre autres:

- à MLI-D28-0006-4330, p.4340, voir l'original MLI-OTP-0051-1032, p.1033-1034, l.31-36.
- à MLI-D28-0006-4330, p.4341, voir l'original MLI-OTP-0051-1032, p.1036, l.115-118.
- à MLI-D28-0006-4330, p.4344, voir l'original MLI-OTP-0051-1032, p.1044, l.375-377.
- à MLI-D28-0006-4330, p.4344, voir l'original MLI-OTP-0051-1032, p.1044, l.397.
- à MLI-D28-0006-4330, p.4345, voir l'original MLI-OTP-0051-1032, p.1045-1046, l.440-449.
- à MLI-D28-0006-4330, p.4346, voir l'original MLI-OTP-0051-1032, p.1049, l.561-578.

Cordialement,

Gilles Dutertre

From: [REDACTED]

Sent: 05 May 2022 16:15

To: 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: Defence list of material for Witness D-0020 - DRAFT

Dear Trial Chamber X,
Dear Colleagues,

Pursuant to paragraph 57 of ICC-01/12-01/18-789-AnxA, the Defence provides its List of Material for Witness D-0020. The eBinder should be uploaded shortly on eCourt.

The Defence also takes this opportunity to seek the authorisation of the Trial Chamber, pursuant to Regulation 35(2) of the Regulations of the Court, to add documents MLI-D28-0003-0843 and MLI-D28-0006-4330 to its Exhibit List. These items are draft English translations of extracts from Al Hassan's statements. They have already been disclosed to the Prosecution, on 17 June 2020 and 28 April 2022 respectively, are only draft translations of Prosecution evidence, and therefore will cause no delay in the proceedings and no prejudice to the Prosecution.

Kind regards,

[REDACTED] on behalf of the Al Hassan Defence

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