



ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

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du dossier: UCH ARUN

E172/5

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

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សាធារណៈ / Public

MEMORANDUM – TRIAL CHAMBER

Date: 2 March 2012

TO: All parties, Case 002

FROM: Judge NIL Nonn, President, Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer

SUBJECT: Updated memorandum for next document hearing (12-19 March 2012)



1. Further to additional information received from the parties, the Trial Chamber hereby issues a revised and updated version of its previous memorandum E172/1.
2. As indicated in its memorandum E172 of 21 February 2012, the Trial Chamber, upon resuming on 12 March 2012, will allocate time for oral objections to all documents which the parties have sought to be put before the Chamber as relevant to the trial in Case 002/01 (E109/1.1, E109/2.1, E109/4, E109/6.2) and which have not to date been discussed in court. These oral hearings are intended as an alternative to the filing of written submissions.
3. For ease of reference, the Trial Chamber clarifies that these oral hearings will pertain to the following remaining categories of documents, comprising documents that are on the case file:
 - All categories of documents proposed by the Co-Prosecutors not addressed during previous document hearings on 16-19 January and 16 February 2012, namely¹;
 - A6 – DK biographies: all documents E9/31.6 listed as relevant in E109/4.6 (41 documents);
 - A7 – DK commerce records: all documents in E9/31.7 listed as relevant in E109/4.7 (169 documents);

¹ As anticipated, the Trial Chamber cross-checked the documents referenced in the footnotes of the paragraphs of the Closing Order relevant to the segment concerning administration and communication structures with the categories of documents proposed by the Co-Prosecutors to be discussed during the hearings on 12-19 March 2012. The Chamber confirms that all documents in the relevant footnotes of the Closing Order falling within these categories have been subject to discussion during the previous document hearings. The Chamber will not hear objections in relation to documents listed in those annexes which have been previously ruled on by the Chamber and been put before it. Document categories A12 and A13 will be dealt with in a written decision pending before the Chamber and are consequently not at this stage scheduled for oral argument.

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- A8 – Tram Kak district records: all documents in E9/31.8 listed as relevant in E109/4.8 (57 documents);
 A9 – S-21 prisoner records: all documents in E9/31.9 listed as relevant in E109/4.9 (297 documents);
 A10 – S-21 confessions: all documents in E9/31.10 listed as relevant in E109/4.10 (345 documents).
 A11 – CF1 trial transcripts: all documents in E9/31.11 listed as relevant in E109/4.11 (12 documents);
 A14 – Site identification reports: all documents in E9/31.14 listed as relevant in E109/4.14 (2 documents);
 A15 – Maps and photographs: all documents in E9/31.15 listed as relevant in E109/4.15 (461 documents);
 A16 – Audio and video: all documents in E9/31.16 listed as relevant in E109/4.16 (398 documents);
 A17 – International communication documents: all documents in E9/31.17 listed as relevant in E109/4.17 (158 documents);
 A18 – International media reports: all documents in E9/31.18 listed as relevant in E109/4.18 (372 documents);
 A19 – Academic articles, analytical reports and books: all documents in E9/31.19 listed as relevant in E109/4.19 (231 documents);
 A20 – Rogatory reports: all documents in E9/31.20 listed as relevant in E109/4.20 (112 documents).
- 10 out of the 25 documents proposed by the Lead Co-Lawyers in Revised Annex 7(a) (i) in E109/2.1 (as communicated to the Chamber and the parties by email from the Lead Co-Lawyers on 27 February 2012, the remaining 15 of these documents either overlap with the Co-Prosecutors' proposed documents, or have already been put before the Chamber). This hearing will not discuss the Lead Co-Lawyers' "Inventory of all supporting documents from the Closing Order sections relevant for the first four segments of the trial" described in E109/2.1, which will instead be addressed by the Chamber at a later date. ;
 - the remaining document proposed by the IENG Sary Defence (identified in E109/6.2 as D222/1.17) (D313/1.2.2 having already been put before the Chamber as E3/88); and
 - the remaining 78 documents proposed by the KHIEU Samphan Defence (E109/1.1) (the following ten documents having already been put before the Chamber, namely D28-Annex (E3/21), 13.2 (E3/182), D201/8 (E3/43), D200/3 (E3/64), D200/9 (E3/67), D125/160 (E3/58), D167 (E3/42), D199/20 (E3/96), D166/166 (E3/35) and D91/9 (E3/104)).
4. All documents attached to the written record of interviews of witnesses or Civil Parties who have testified to date, and those witnesses, Civil Parties and experts identified in memorandum E172 for the next trial session, will be considered as having been put before the Chamber with the testimony of that individual, unless objected to by the parties during this testimony.
5. Following the informal meeting of the parties with the Trial Chamber Senior Legal Officer of Wednesday 29 February 2012, the Chamber advises the parties of the following time allocations for the 12-19 March 2012 document hearings:

Monday 12 March 2012: NUON Chea Defence objections to all above documents (afternoon session, following the reading by the Trial Chamber greffiers of the Closing Order paragraphs relevant to the next trial segment);

Tuesday 13 March 2012: IENG Sary Defence objections to all above documents (morning session) and KHIEU Samphan Defence objections to all above documents (afternoon session);

Wednesday 14 March 2012: Co-Prosecutors' and Civil Parties' objections to the above documents proposed by the Defence teams (morning session, on a time allocation to be agreed by both parties) and Co-Prosecutors' and Civil Parties' response to Defence objections (afternoon session);

Thursday 15 March 2012: Co-Prosecutors' and Civil Parties' response to Defence objections (all day);

Monday 19 March 2012: Response of all Defence teams to other parties objections (all day, if required, on a time allocation to be agreed between all teams).

6. The Chamber has been seised of a request by the Co-Prosecutors that TCE-38 be heard before the Chamber by video-link during morning sessions in early April 2012 (E166/1). Several Defence teams have advised the Chamber of their intention to object to the hearing of the Expert in this manner. The Chamber is also seised of a request from the IENG Sary Defence to obtain further documentation from TCE-38 in advance of his testimony, to which the Co-Prosecutors have objected (E172/2 and E172/3, respectively). To enable timely consideration of these issues, the Chamber will hear oral argument in relation to them on the afternoon of Monday 19 March 2012 (should proceedings scheduled for that day conclude early) or otherwise on the afternoon of Tuesday 20 March 2012. It provides the following time allocations for the parties:

Co-Prosecutors, supported by the Lead Co-Lawyers (on the Co-Prosecutors' application to hear TCE-38 by video-link and objection to additional documents sought): 90 minutes.

IENG Sary Defence (on their application for additional documents from the Expert and objection to the hearing of the Expert by video-link) and any other Defence team joining their applications: 90 minutes

A right of reply of 20 minutes (on both issues) shall then be afforded to the Co-Prosecutors, followed by a 20 minute right of reply for the IENG Sary Defence and any other Defence team joining their applications.

Specific time allocations between the Co-Prosecutors and Lead Co-Lawyers, and the IENG Sary Defence and any other Defence team joining their applications, shall be agreed between those parties.

7. Further directions regarding discussion of all new documents listed by the parties shall follow in due course and, where necessary, documents proposed by the NUON Chea Defence (E131/1/13) and those contained in Annexes A12 and A13, following issuance of the Trial Chamber's pending decisions in these areas. The parties shall also at a later date be invited to supplement their July 2011 document lists by identifying those documents from their April 2011 document lists which are instead relevant to the concluding segments of the trial in Case 002/01 (namely, population movements phase 1 and 2, in addition to any further areas which the Chamber may of its own motion indicate to fall within the scope of the trial in Case 002/01).

7. The Trial Chamber advises the parties that pursuant to its discretion under Internal Rule 91*bis*, it intends (following initial questioning from the bench) to delegate to the Co-Prosecutors responsibility to lead the questioning of KAING Guek Eav *alias Duch*, as well as the questioning of all witnesses related to Communications Structures in memorandum E172

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(namely, TCW-480 through to TCW-398). Opportunity to examine all witnesses will then be provided to the other parties, in accordance with the usual modalities.