



ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):
..... 16 / 06 / 2012

ពេលវេលា (Time/Heure):..... 08 : 40

ឈ្មោះមន្ត្រីដាក់ឯកសារ/Case File Officer/L'agent chargé
du dossier:..... SANN RONA

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

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

TRIAL CHAMBER

Date: 13 June 2012

TO: All parties, Case 002

FROM: President NIL Nonn, Trial Chamber

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

SUBJECT: Notice to parties regarding revised modalities of questioning and Response to Co-Prosecutors' Request for Clarification Regarding the Use of Documents During Witness Testimony (E201)

The Trial Chamber reminds the parties that in the interests of ensuring the expeditiousness of proceedings, it has recently commenced the questioning of each witness by asking whether the witness is familiar with the statement they gave before the Co-Investigating Judges (OCIJ) and whether this represents an accurate statement of their evidence. Where the witness indicates that s/he does recall their statement and that its contents as recorded in the OCIJ written record are true, parties shall not repeatedly request the witness to confirm this fact or otherwise attempt to force the witness to merely repeat the contents of that statement. The parties should instead focus their efforts on other questions (for instance, on matters beyond the contents of the statement) or in posing specific challenges to the credibility of the statement or the witness' evidence.

The Trial Chamber further notes the Co-Prosecutors' Motion E201 of 30 May 2012 in which they provide advance notice to the Chamber and the parties of their intention to use documents in order to (1) refresh the memory of a witness; (2) authenticate a given document, or to aid the Chamber to assess the weight that should finally be attributed to that document; (3) corroborate the substance of, or extrapolate from, the substance of a document, based on the witness' direct knowledge; or (4) test the credibility of the witness. As Motion E201 merely restates the law, is compatible with previous directions provided by the Chamber and requests no specific relief beyond clarification, no replies to this motion will be entertained. In the interests of trial efficiency, the Chamber requests that where future communications are intended only to provide notification to the Chamber and the parties, or to seek clarification, that this be done instead *via* the Trial Chamber Senior Legal Officer, who distributes all communications received on behalf of the Chamber to the bench and, where appropriate, the other parties.

Whilst considering the principles identified by the Co-Prosecutors to be well-recognized by rules established at the international level, the Chamber nonetheless notes the advanced age of many witnesses before the ECCC. These witnesses, in addition to being elderly, have frequently also been visually or hearing impaired, or possess limited literacy. It follows that the putting of large quantities of documents to such witnesses may produce limited results and adversely impact trial efficiency. It is for these reasons that the Chamber has to date encouraged the parties, wherever possible, to instead orally incorporate the contents of documents that may permissibly be put to a witness into their questions.

Finally, the parties are reminded that as Case 002/01 is a trial conducted in the civil law system, there is no need as such to present documents only through witnesses. The parties have further been given the opportunity, at the conclusion of each trial segment, to highlight documents they deem most relevant to that segment. The Trial Chamber envisages continuing this practice in relation to the current, and later, trial segments.