

**ឯកសារដើម**  
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du dossier: ..... SANN RAVIN .....



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

**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

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

**TRIAL CHAMBER**

**ស្ថាប័ន / Public**

**Date: 31 July 2012**

**TO: All parties, Case 002**

**FROM: NIL Nonn, President, Trial Chamber**

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

**SUBJECT: Response to outstanding request in E216**



1. The Trial Chamber is seised of a request from the Co-Prosecutors to ask the Co-Investigating Judges to provide a document given to them by witness TCW-694 during their investigation in 2009, and to place this document on the Case File (E216). The document in question is an unpublished thesis or manuscript written by TCW-694 to which the Co-Investigating Judges made limited reference in questioning the witness (E3/377). The Co-Investigating Judges decided not to place the document on the Case File in its entirety (E216/2), but extracts from the document have been placed on the Case File and put before the Chamber as E3/40.

2. In order to assess the merits of the Co-Prosecutors' application, the Chamber asked the Co-Investigating Judges to provide the document (E216/1). The National Co-Investigating Judge granted this request on 24 July 2012 (E216/2). The thesis is approximately 294 pages long and is only available in French. The Co-Prosecutors have indicated that their application was made in order to use the thesis for questioning the witness during his testimony in court. The Trial Chamber therefore understands the application to be not only a request to place the document on the Case File but also to put this document before the Chamber.

3. Although the Chamber has held that documents used by the Co-Investigating Judges during their interviews with a witness form part of that witness's prior statements, and may be put before the Chamber on this basis (T., 18 July 2012, p. 5), the Chamber has also indicated that documents introduced at trial should ordinarily be available in all three official ECCC languages (E131/1). The Chamber may grant the parties some latitude in this respect when a document to be used as a basis for questioning a witness is available in a language that the witness understands, and workload constraints of the ITU prevent its timely translation, or where the relevant portion of a document to be used is brief and can be easily translated in court (E162).

4. The length of the thesis means that it cannot be translated into English and Khmer prior to the appearance of TCW-694. The extracts from the thesis have been on the Case File since 6 July 2007 (in French) and 9 June 2010 (in English) as IS 3.9. The Written Record of Interview in which the thesis was cited by the Co-Investigating Judges has been on the Case File since 18 May 2009 as D168. The burden was on the Co-Prosecutors to obtain the document from the Co-Investigating Judges and ensure its timely translation well in advance of the scheduled appearance of TCW-694, whereas this matter was brought to the Chamber's attention only on 5 July 2012.

5. In these circumstances, the Chamber rejects the Co-Prosecutors' request to put the thesis before the Chamber in its entirety. The Chamber has nonetheless placed on the Case File as an Annex to this Memorandum six short extracts from the thesis, corresponding to the sections cited by the Co-Investigating Judges in their interview (E3/377). Translations of these extracts into English and Khmer have been requested. The Chamber will allow all parties to put these extracts before the Chamber and to refer to portions of this Annex when questioning TCW-694, provided that they are brief and can be easily translated in court.