

**ឯកសារដើម**  
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du dossier: U.C.H. ARUM



ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

**TRIAL CHAMBER**

សាធារណៈ / Public

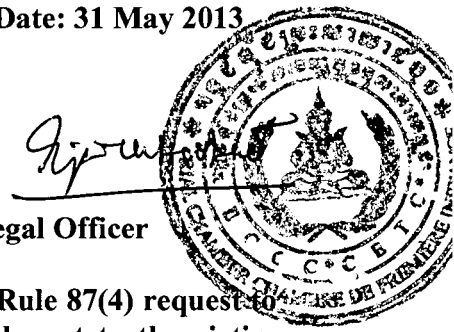
Date: 31 May 2013

**TO:** All Parties, Case 002

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

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

**SUBJECT:** Decision on Civil Party Lead Co-Lawyers' Internal Rule 87(4) request to place on the Case File and admit new evidence relevant to the victim impact (E285)



1. The Chamber is seized of a request from the Civil Party Lead Co-Lawyers to put before the Chamber new evidence comprising 6 documents regarding mental health issues facing survivors of the Khmer Rouge regime (E285).

2. According to Internal Rule 87(4), the Trial Chamber may admit any new evidence that it deems conducive to ascertaining the truth, where that evidence also satisfies the *prima facie* standards of relevance, reliability and authenticity required under Rule 87(3). Ordinarily, the requesting party must satisfy the Chamber that the proposed new evidence was either unavailable prior to the opening of the trial or could not have been discovered with the exercise of due diligence. However, in certain cases, the Chamber has admitted evidence which does not strictly speaking satisfy this criteria, including in instances where evidence relates closely to material already before the Chamber and where the interests of justice require the sources to be evaluated together, where the proposed evidence is exculpatory and requires evaluation to avoid a miscarriage of justice, or where the other parties do not object to the evidence (*see e.g.* E190, paragraphs 19-21 and E172/24/5/1).

3. Proposed documents E285.1.1 (an edited volume by van Schaack and others, published in September 2011), E285.1.2 (an article by Wong and others, published online in September 2010) and E285.1.3 (an article by Marshall and others, published in 2005) were available before the opening of the trial in November 2011. While E285.1.4 (an article by Stammel and others) and E285.1.5 (a comment by the Committee against

Torture) were not available before the opening of the trial, they were published in January 2013 and December 2012 respectively. Without further explanation as to why these documents could not have been discovered with due diligence or presented earlier, the Lead Co-Lawyers have not satisfied the strict requirements of Internal Rule 87(4). These documents were nonetheless presented well before the hearings on victim impact, and are not objected to by the other parties.

4. The Chamber further notes that portions of E285.1.1 and E285.1.4 are co-authored by TCE-12 and are likely to relate to his forthcoming testimony on 5 June 2013. E285.1.2 and E285.1.3 concern the health status of resettled Cambodian refugees two decades on, and may be relevant to the forthcoming testimony of TCCP-4, who resides in the United States of America and is scheduled to be heard on 4 June 2013. The Trial Chamber therefore considers it in the interests of justice that this evidence be evaluated together. E285.1.5 discusses the entitlement of torture victims to redress, and is thus potentially relevant to reparations. Accordingly, the Chamber grants the request to place on the Case File E285.1.1, E285.1.2, E285.1.3, E285.1.4 and E285.1.5. The Chamber will hear Internal Rule 87(3) objections, if any, to the admissibility of these documents should the Civil Party Lead Co-Lawyers seek in due course to put this evidence before the Chamber.

5. Regarding E285.1.6 (Sotheary YIM's publication on forced marriage, which analyses the psychological trauma experienced by eight women subjected to forced marriage under the regime), the relevance of this document to Case 002/01 has not been demonstrated. Accordingly, the Chamber denies the request to place this document on the Case File.

6. With the exception of E285.1.5, which is also available in French, all documents are currently only available in English. Placement of these documents before the Chamber is subject to the timely availability of translation and their in-court use subject to their timely availability at least in Khmer.

7. This constitutes the Chamber's official response to E285.