



**ឯកសារដើម**  
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E399/4

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**

Date: 19 May 2016

**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 NUON Chea's Rule 92 Motion to Use certain S-21 Statements



1. The Trial Chamber is seised of a request filed on 20 April 2016 by the NUON Chea Defence to be allowed to use the S-21 Statements of KOY Thuon, YIM Sambath and CHEA Non on the basis that there is evidence rebutting the presumption that there is a real risk that these statements were obtained through torture (E399, paras 1, 31-32). Alternatively, the NUON Chea Defence requests the Trial Chamber to exercise its power under Internal Rule 93 to order investigations into the circumstances in which said statements were obtained before making any decision on their permissible use (E399, paras 30, 32). On 2 May 2016, the Co-Prosecutors and the Civil Party Lead Co-Lawyers filed responses to the NUON Chea Request. The Co-Prosecutors oppose the use of these statements in the Case 002/02 trial except to the extent that (a) their use falls within the exception stated in Article 15 of the Conventions Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") or (b) they are used in the limited circumstances authorised by the Chamber (E399/2, paras 2, 6, 30). The Co-Prosecutors also submit that further investigations are unnecessary and impractical (E399/2, para. 2). The Civil Party Lead Co-Lawyers ask that the Trial Chamber dismiss the NUON Chea request (E399/1, para. 24). On 5 May 2016, the Trial Chamber authorised the NUON Chea Defence to file a combined reply in English with Khmer to follow, limited to 20 pages, by 12 May 2016 (emails from the Senior Legal Officer, 5 May 2015). In its reply, the NUON Chea Defence requests the Chamber to dismiss the arguments raised by the Co-Prosecutors and the Civil Party Lead Co-Lawyers in their

responses and allow the use of the S-21 Statements of KOY Thuon, YIM Sambath and CHEA Non (E399/3, paras 1, 58).

2. The Trial Chamber hereby:
  - a. Rejects the request to allow the use of the S-21 Statements of KOY Thuon, YIM Sambath and CHEA Non except within the limited circumstances authorised by the Chamber in its Decision on Evidence Obtained Through Torture (E350/8); and
  - b. Rejects the request to conduct further investigations under Internal Rule 93.
3. Written reasons for this decision will be issued in due course.