



**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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

សំណុំរឿងលេខ: ០០២/១៩ កញ្ញា ២០០៧/អវតក/អជសដ
Case File/Dossier No. 002/19-09-2007/ECCC/TC

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Before: Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge YOU Ottara

Date: 8 April 2014
Original language(s): Khmer/English/French
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ORDER TO FILE UPDATED MATERIAL IN PREPARATION FOR TRIAL IN CASE 002/02

Co-Prosecutors
CHEA Leang
Nicholas KOUMJIAN

Accused
NUON Chea
KHIEU Samphan

Civil Party Lead Co-Lawyers
PICH Ang
Elisabeth SIMONNEAU-FORT

Lawyers for the Defence
SON Arun
Victor KOPPE
KONG Sam Onn
Arthur VERCKEN
Anta GUISSÉ

THE TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia;

NOTING the Trial Chamber's Decision of 4 April 2014, in which it further severed the proceedings in Case 002 and determined the scope of Case 002/02;¹

RECALLING the Trial Chamber's Order to File Material in Preparation for Trial, pursuant to which the Parties filed, among other material, witness, Civil Party and expert lists in relation to the totality of Case 002;²

HEREBY

ORDERS the Parties to file the following for the purposes of Case 002/02:

I. Updated list of proposed witnesses, Civil Parties and experts who do not seek protective measures

1. In 2011, the Parties filed lists of proposed witnesses, experts and Civil Parties who, in the view of the Parties, do not seek protective measures. The Chamber requests that the Parties file updated versions of those lists for the purposes of the proceedings in Case 002/02. The present Order does not authorise the Parties to add further witnesses, experts and Civil Parties. Any application to hear additional individuals however, shall be filed in accordance with Internal Rule 87(4).

2. Updated lists are to be filed by Friday, 9 May 2014 in Khmer and either English or French. In accordance with the previous guidelines, they shall contain the following information concerning each proposed witness, Civil Party or expert:

- i) Full name, gender, date and place of birth;
- ii) Current address and/or contact details;
- iii) Any pseudonym previously assigned by the Trial Chamber;³
- iv) Document reference number of the relevant written record of interview or of any other relevant document;

¹ Decision on Additional Severance of Case 002 and Scope of Case 002/02, E301/9/1, 4 April 2014.

² Order to File Material in Preparation for Trial, E9, 17 January 2011.

³ The Trial Chamber notes its previous List of Proposed Witnesses, Experts and Civil Parties – Pseudonyms (*see*, for example, E9/35, E9/35/1 and E935/1.1) which should assist the Parties in their preparation of the requested material.

- v) Any applicable existing protective measures and reference to the relevant decision providing for such measures;
- vi) A statement of any relationship referred to in Rule 24(2);
- vii) The estimated length of time required to testify;
- viii) The language of the proposed testimony or hearing; and
- ix) Where relevant, the type of oath to be taken.

3. These updated lists of proposed witnesses, Civil Parties, and experts shall be filed as “confidential” pending a final determination of their classification by the Trial Chamber.⁴ The Trial Chamber will in due course and as necessary, transmit the updated lists to the Witnesses and Experts’ Support Unit for trial preparation purposes.

4. These updated lists shall be filed in the same table format provided in the sample templates annexed to E9.⁵ Each filing Party shall as soon as possible also provide Microsoft Word version of their updated lists to the Trial Chamber Greffiers for internal use by the Chamber.

II. List of proposed existing witnesses, Civil Parties or experts who seek protective measures

5. Should there be any witnesses, Civil Parties or experts whom the Parties intend to call **for whom protective measures will be sought**, separate lists shall also be filed by Friday, 9 May 2014 in Khmer and either English or French. These lists shall be filed in a table format and shall contain a brief indication of the measures being sought. Pending a determination by the Chamber on the requests for protective measures and their confidentiality status, the lists will be filed marked “Strictly Confidential”.⁶ As applicable, the lists will also contain the information set out in paragraph 2 above.⁷

6. The Trial Chamber will seek submissions from the Parties on why they are seeking protective measures in relation to each individual in due course. Following determination of

⁴ The Trial Chamber recalls that under established Trial Chamber practice, and in accordance with the practice of other internationalised tribunals, individuals called to give evidence are identified in court only by their pseudonyms, principally to protect against press intrusion. Following their testimony in open session, individuals may be identified in court by name (*see* Disposition of all Requests for Protective Measures sought in Case 002/01 and Response to Co-Prosecutors’ Request for the Recall of Civil Party SAR Sarin and an Order for a Formal Assessment of the Need for Protective Measures (E286), E239, 28 June 2013).

⁵ The Trial Chamber Greffiers will provide the Parties with Microsoft Word versions of the templates for these tables.

⁶ The Trial Chamber will in due course and as necessary also transmit these lists to the Witnesses and Experts’ Support Unit for trial preparation purposes.

⁷ The Trial Chamber Greffiers will provide the Parties with Microsoft Word versions of the templates for these tables.

the requests for protective measures, the Trial Chamber will provide an opportunity for the Parties to comment on these lists.

III. Updated information required in relation to proposed witnesses, Civil Parties and experts

7. In 2011, the Parties provided information in relation to proposed witnesses, Civil Parties and experts. The Chamber directs the Parties to file updated versions of this information for the purposes of the proceedings in Case 002/02, in a table format.⁸ These tables shall also be filed by Friday, 9 May 2014 in Khmer and either English or French. In accordance with the previous guidelines, the Chamber directs that this information include:

- i) A summary of the facts on which each proposed witness is expected to testify, or on which each Civil Party is to be heard concerning the facts or the impact of the alleged crimes. Subject to any protective measures that might have been ordered, the summary should be sufficiently detailed to allow the Chamber and the other Parties to understand fully the nature and content of the proposed testimony;
- ii) A summary of the proposed expertise and qualification of each proposed expert. Subject to any protective measures that might have been ordered, the summary should be sufficiently detailed to allow the Chamber and the other Parties to understand fully the nature and content of the proposed expertise; and
- iii) The points of the Indictment to which each proposed witness, Civil Party or expert is expected to testify, including, where possible, the exact paragraph/s of the Closing Order and the specific count/s.⁹

Each filing Party shall also provide Microsoft Word versions of these tables to the Trial Chamber Greffiers for internal use by the Chamber.

IV. Objections to proposed witnesses and experts

8. Subject to II above, by no later than Friday, 30 May 2014, the Parties shall provide an indication of whether each Party intends to object to the calling of any proposed witnesses or experts and why. The Trial Chamber will consider whether to seek specific additional submissions from the objecting Party at a later stage.

⁸ The Trial Chamber Greffiers will provide the Parties with Microsoft Word versions of the template for these tables.

⁹ The Trial Chamber notes the Annex to the Decision on Additional Severance of Case 002 and Scope of Case 002/02 lists the paragraphs and portions of the Closing Order relevant to Case 002/02 and should assist the Parties in their preparation of the requested material.

V. List of uncontested facts

9. The Co-Prosecutors and each Defence team shall file a joint list of uncontested facts pursuant to Rule 80(3)(e) no later than Friday, 6 June 2014.

10. The Co-Prosecutors and the Defence shall continue to co-operate on a regular basis and promptly report to the Trial Chamber on any fact or evidentiary issue which the Parties subsequently acknowledge to be uncontested.

VI. Updated Lists of Documents and Exhibits¹⁰

11. The Parties shall also provide an updated version of their lists of the documents previously filed, no later than Friday, 30 May 2014. These documents shall be appropriately identified¹¹ by their current document reference number,¹² title, available language/s, a brief description of their nature and contents as well as the relevant points of the Indictment, including, where possible, the exact paragraph/s of the Closing Order and the specific count/s.

12. The Parties shall also provide, no later than Friday, 30 May 2014, an updated list of exhibits they intend to offer in Case 002/02, containing a brief description of their nature and contents as well as their document reference number and the relevant points of the Indictment, including, where possible, the exact paragraph/s of the Closing Order and the specific count/s.

13. This material shall be filed as “confidential” pending a final determination of its classification by the Trial Chamber and in a table format.¹³ Each filing Party shall also provide Microsoft Word versions of this material to the Trial Chamber Greffiers for internal use by the Chamber.

14. Any application to add new or additional documents and exhibits which are not already before the Chamber pursuant to Case 002/01, shall be filed in accordance with Internal Rule 87(4).

¹⁰ The Trial Chamber notes that only the Lead Co-Lawyers previously filed a list of exhibits.

¹¹ In particular, in the case of books or other lengthy documents, where possible the Parties shall refer to those excerpts which are identified as relevant. This indication will facilitate the assessment of the necessary translation requirements in Case 002/02.

¹² The Chamber already indicated that documents put before the Chamber during Case 002/01 have been the subject of the requirements of Rule 87(3) and shall serve as a foundation for Case 002/02. *See* Trial Chamber memorandum entitled “Clarification regarding the use of evidence and the procedure for recall of witnesses, civil parties and experts from Case 002/01 in Case 002/02”, E302/5, 7 February 2014, para. 8. The identification of those documents in the updated lists, however, is required for reference purposes.

¹³ The Trial Chamber Greffiers shall provide the Parties with Microsoft Word versions of the templates for these lists.

VII. Indication of legal issues in advance of the Initial Hearing

15. The Parties shall also provide an indication of any legal issues they intend to raise at the Initial Hearing no later than Monday, 9 June 2014.

Phnom Penh, 8 April 2014
President of the Trial Chamber



[Handwritten signature]

Nil Nonu