

E319/35/14



**ឯកសារដើម**

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Case File Officer/L'agent chargé  
*Sam Ror*

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: 11 May 2017

**TO:** Michael BOHLANDER, International Co-  
Investigating Judge (ICIJ)

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

**CC:** YOU Bunleng, National Co-Investigating Judge; All Trial Chamber  
Judges; Trial Chamber Senior Legal Officer, All Parties, Case 002



**SUBJECT: Right to a Public Trial and Closing Statements in Case 002/02**

1. On 20 February 2017, the Co-Prosecutors filed a motion requesting that absent cogent reasons to maintain redactions of Case 002/02 transcripts or use pseudonyms for Case 002/02 witnesses, the Chamber make all Case 002/02 transcripts fully public (OCP Request)(E319/35/7, para. 4). On 3 March 2017, the Trial Chamber forwarded the OCP Request to the International Co-Investigating Judge (ICIJ) seeking his view as to whether the integrity of the investigations in Cases 003 and 004 still required the measures which apply to transcripts and witnesses in Case 002/02 or whether these may now be lifted (E319/35/8). Upon the International Co-Investigating Judge's request, the Co-Prosecutors further listed the witnesses and statements they seek to have re-evaluated (E319/35/10). The ICIJ responded on 24 April 2017, indicating that, due to the need to focus his limited staff resources on his primary mandate, he would not be able to prioritise the OCP Request within the time set by the Chamber for the filing of Closing Briefs (2 May 2017), and requesting that the Trial Chamber require the parties to respect the measures already in place (E319/35/12.1). On 2 May 2017, the Chamber denied the OCP Request noting that "[it] is not in a position to lift redactions to transcripts or to permit reference to witnesses' names which are protected by ICIJ orders until such time as the ICIJ indicates that making this information public will not affect the integrity of the Cases 003 and 004 investigations" (E319/35/12).

2. As previously noted (E319/35/5, para. 5), the Office of the Co-Investigating Judges is best placed to assess whether the factors which have justified the conditions imposed have changed and in particular whether the disclosure of this protected information could

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adversely impact upon the integrity of ongoing judicial investigations. However, given the imminence of the Closing Statements, which shall be open to the public, the Chamber is concerned that the absence of any updated information from the ICIJ would prejudice the right to a public trial, particularly if circumstances have changed and no longer justify maintaining confidentiality of this information. Therefore, while the Chamber understands that the ICIJ has numerous concurrent responsibilities, it respectfully requests him to indicate, on an expedited basis, whether the measures which apply to transcripts and witnesses in Case 002/02, as listed in the annexes of the OCP request (E319/35/10.1, E319/35/10.2, E319/35/10.3 and E319/35/10.4), may now be lifted. Closing Statements will be heard from 13 June 2017. We would appreciate an answer as early as possible but in any event no later than 6 June 2017.