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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

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

សំណុំរឿងលេខ: ០០២/១៩ កញ្ញា ២០០៧/អវតក/អជសដ

Case File/Dossier No. 002/19-09-2007/ECCC/TC

Before: Judge NIL Nonn, President
Judge Jean-Marc LAVERGNE
Judge YA Sokhan
Judge Claudia FENZ
Judge YOU Ottara

Date: 28 December 2016
Original language(s): Khmer/English/French
Classification: CONFIDENTIAL

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ORDER TO INITIATE INVESTIGATION OF DOCUMENTS RECEIVED FROM PROF. WALTER HEYNOWSKI

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1. INTRODUCTION

1. The Chamber recalls its decision of 21 September 2016 by which it noted that it had sought information from Walter HEYNOWSKI (2-TCW-946) regarding his knowledge of relevant documents in lieu of hearing his testimony.¹ The NUON Chea Defence had requested the testimony of Prof. HEYNOWSKI in relation to the topic of security centres, particularly S-21. It was submitted that the proposed witness had produced a documentary which showed original documentation discovered at S-21 in 1979, including an orange booklet compiling the daily records of prisoners.²

2. On 7 December 2016, the Chamber outlined the steps it had taken to obtain the documents in Prof. HEYNOWSKI's possession.³ As a result of the Chamber's efforts, Prof. Walter HEYNOWSKI provided to the Chamber several documents originating from S-21, specifically an orange logbook ("Logbook") and several loose pages in German and Khmer ("Heynowski Documents") which apparently are badly deteriorated.⁴ The Logbook was scanned and placed on the Shared Materials Drive (SMD)⁵, and access to the original Logbook was provided to the parties. The Chamber invited the parties to review the Logbook and to make oral submissions pursuant to Internal Rule 87(4) and it was subsequently admitted.⁶ The Chamber also noted however that the Heynowski Documents are of such poor quality that they cannot be handled by the Records and Archives Unit (RAU) without risking further damage.

3. In accordance with Prof. Heynowski's stated wishes the Logbook and the Heynowski Documents will be donated to the Tuol Sleng Museum.⁷ The Chamber considers that the Heynowski Documents should be assessed to determine whether they can be preserved and scanned. It therefore considers it necessary to request the assistance of the Director of the Tuol Sleng Museum to assist the Chamber in these matters.

¹ Decision on NUON Chea Defence Requests to hear Additional Witnesses pursuant to Internal Rule 87(4) (E391, E392, E395, E412, and E426), E443, 21 September 2016.

² NUON Chea's Fourth Witness Request for the Case 002/02 Security Centres and "Internal Purges" Segment (S-21 Operations and Documentary Evidence), E412, 7 June 2016, paras 31-32.

³ Documents Obtained from Professor Walter Heynowski, E443/2, 7 December 2016 ("Notification Memorandum").

⁴ Notification Memorandum, para. 6.

⁵ ERN 01355895-01356140.

⁶ Decision on Request to Admit Logbook and to Recall two witnesses regarding S-21, E443/3, 27 December 2016 (confidential).

⁷ Letter to Director of Tuol Sleng Museum re: Donation of documents from Professor Walter Heynowski and Request for information, E443/4, 27 December 2016.

FOR THE FOREGOING REASONS, THE TRIAL CHAMBER:

DECIDES to initiate an additional investigation pursuant to Internal Rule 93 to obtain if possible a description, a scanned copy and a first assessment of the uniqueness and authenticity of the Heynowski Documents in addition to ensure their preservation for possible use as evidence in Case 002/02;

REQUESTS the Director of the Tuol Sleng Museum to examine the Heynowski Documents and to report the following information to the Chamber by 10 January 2017:

- (1) a detailed description of each document, including the nature and title, the number of pages, the language used, the nature of the document (typed, handwritten, mixed, etc.) and the condition of the document;
- (2) an indication of whether it is possible to preserve and scan/photograph these documents, and if so, within what time period such scans or photographs may be provided to the Trial Chamber;
- (3) an assessment of whether the documents are new to the Tuol Sleng archive or are duplicates of documents already within the Tuol Sleng or any other public archive; and
- (4) a *prima facie* assessment of the authenticity of the Khmer documents.

Phnom Penh, 28 December 2016
President of the Trial Chamber



Nil Nonn