



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

*E189/3/1/7/Corr-1*

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

**Request for Correction**

<b>ឯកសារដើម</b>
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 19-Mar-2013, 11:20
CMS/CFO: Sann Rada

**Case :** 002/19-09-2007-ECCC/SC

To Document No(s):	ERN(s):	Request Date:	Correction Type:
E189/3/1/7	00893594-00893609	19 March 2013	<input checked="" type="checkbox"/> Change to Original <input type="checkbox"/> Change to Translation <input type="checkbox"/> Reclassification

**Reason for changes:**  
There is one word need to be redacted.

**Details:**  
Redacted one word on ERN 00893604

**Filing Party:** Nuon Chea Defence Team

**Signature:** *Mala*

**Approved by Greffier (for originals):** *Thom*

**Signature:** *[Signature]*

**Approved by ITU (for translations):**

**Signature:**

002/19-09-2007-ECCC-SC

took that decision without reasons, failing even to address the argument, advanced by the Defence, that both witnesses are in possession of critically important evidence unavailable from any other source.<sup>31</sup> In the case of ██████████, there is reason to believe that evidence would be directly exculpatory.<sup>32</sup> In light of the evident significance of both witnesses, the failure of the Trial Chamber to substantiate its decision not to hear them and the submissions of the international Co-Prosecutor as to the difficulty in obtaining the appearance of similarly placed witnesses (██████████

<sup>31</sup> Nuon Chea Witness Request, paras 31-37. As the Defence explained in that request, as elsewhere, these are no ordinary witnesses. ██████████ were both top-ranking military officials with first-hand knowledge of the events at issue in the Closing Order. ██████████ in particular was, in Khmer Rouge military parlance, the deputy commander of one of the two Divisions which comprised the East Zone army, and arrived at independence monument in that capacity at 9:00 am on 17 April 1975. In plainer language, ██████████ was within the tiny circle of the highest-ranking officers to actively liberate Phnom Penh. He is *the highest ranking official still alive today*. The importance of that unique perspective to the ongoing trial can only be fully understood in light of two facts: (i) the evacuation of Phnom Penh, beginning on 17 April 1975, is the focus of Case 002/01 (as it then was); (ii) there is substantial evidence that the Zone armies which captured Phnom Penh operated independently and under the control of their Zone leaders – including ██████████ rather than the CPK party center. See e.g. Document No. E-3/20, ‘When the War Was Over’, ERN 00237694-00238316, pp. 173-4 (‘But the armed forces of Democratic Kampuchea were in reality six separate armies, belonging to the Northern, Northeastern, Eastern, Southwestern, Northwestern, and Special Zones. Out of necessity and the revolutionary mandate of the cooperative system, the zone leaders – zone party secretaries appointed earlier by the party leadership – had been in charge of the military, the party and the civilians who lived in their territory. Each zone leader had been expected to operate semiautonomously.’); Document No. E-3/9, ‘Pol Pot, The History of a Nightmare’, ERN 00396177-00396757, pp. 272 (‘To confound the confusion, troops from the four different Zones responsible for occupying the city issued contradictory orders.’), 274 (‘The South-Westerners were also more selective in their treatment of republican soldiers. Some, but not all, senior officers were killed, and junior officers and NCOs were spared.’); Document No. E-3/1593, ‘The Pol Pot Regime: Race, Power and Genocide in Cambodia under the Khmer Rouge, 1975-79’, ERN 00678476-00678740, pp. 38 (‘The Northerners soon became known for their use of methods even more brutal than those of the Southwest and Special Zone forces.’), 43 (‘“The Easterners used kind methods along the road. They gave out medicine and rice.” Unlike the Southwesterners, they did not open fire...The Eastern Zone forces were generally much better behaved.’), 47 (‘... he found the Northern Zone “blackshirts” very harsh to the refugees; at the same time these Khmer Rouge were very critical of the Khmer Rouge across the river, in the Eastern Zone... [The East Zone soldiers] were helpful... good commies soldiers.’). No other person with knowledge of the relationship between the party center and zone leaders even remotely comparable to ██████████ is under consideration as a potential witness in Case 002 (fittingly, the one possible exception is ██████████, one of the Suspects in Case 003, who is the beneficiary not only of protection from the RGC but also the right to remain silent). In just one manifestation of that unique perspective, these two individuals are the only witnesses to a meeting, held on 20 May 1975, which allegedly concerned among other things DK policy as to former Khmer Republic officials. Both men have described that meeting to Ben Kiernan: whereas ██████████ claims that Nuon Chea ordered that such officials be ‘smashed’, ██████████ specifically rejected his recollection and insisted that Nuon Chea used the substantively different phrase ‘scattered’. ██████████ testimony is therefore directly exculpatory as to allegations against Nuon Chea, and substantiates the longstanding claim of the Defence that any crimes which were committed were ordered either by lower level officials or not at all. As the Chamber no doubt recognizes, ██████████ account of this meeting is relevant not only in itself but also because it begs the question: what else does he know? Because he has refused to cooperate with this Tribunal, the answer is unknown.

<sup>32</sup> Nuon Chea Witness Request, paras 33-34.

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