



**ឯកសារដើម**  
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du dossier: ..... SAMN RADA .....

E404/4

**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

**សាធារណៈ / Public**

**TRIAL CHAMBER**

**Date: 23 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 the Admission into Evidence of the Choeung Ek Study Documents



1. On 2 May 2016, the Trial Chamber invited written submissions by the parties on whether a 32-volume study on the bones of the human skeleton remains found at Choeung Ek (“Choeung Ek Study”) should be admitted into evidence, considering its length and availability only in Khmer. The Chamber also invited submissions on the admissibility of an “External Program Evaluation Report” of the Choeung Ek Study (“Evaluation”), which is available in English and Khmer (E404). On 12 May 2016, the Co-Prosecutors, the NUON Chea Defence and the KHIEU Samphan Defence filed their written submissions (E404/1, with annexes; E404/2, with annexes; and E404/3 respectively).

2. The Co-Prosecutors request that the following documents be admitted into evidence: i) the Evaluation; ii) the 32 charts summarising the findings of the human remains analysed in each volume of the Choeung Ek Study (E404/1, paras 17, 26; E404/1.4); iii) the photographs of different implements found at the site and allegedly used to kill or restrain the victims (E404/1, paras 15, 26; E404/1.3); and iv) one page of the of the osteological analysis of a cranium as a sample of the information contained in the Choeung Ek Study (E404/1, para. 13; E404/1.2).

3. The NUON Chea Defence submits that the Choeung Ek Study should not be admitted into evidence as it fails to meet the requirements of relevance and reliability set out in Internal Rule 87(3). The NUON Chea Defence bases this conclusion partly on its review of the preface common to each volume of the Choeung Ek Study and of an example of an individual cranium examination report contained in the Study (see

E404/2.1.3 and E404/2.1.4). It further submits that, as a result, the Evaluation should also not be admitted into evidence. In the alternative, should the Trial Chamber decide to admit the Choeung Ek Study, the NUON Chea Defence submits that the Evaluation should also be admitted into evidence and the author of the Choeung Ek Study, Mr. VOEUN Vuthy, should be called to testify on the methodology and the processes used in the preparation of the Choeung Ek Study (E404/2, paras 8-9, 12-17, 23-24).

4. The KHIEU Samphan Defence submits that it does not find it is necessary to translate the Choeung Ek Study and to admit it into evidence. It further submits that it has no objections to the admission of the Evaluation (E404/3, para. 9).

5. Having considered the requirements of Internal Rules 87(3) and 87(4) and the submission of the parties, the Chamber decides to admit into evidence the following documents:

- a. The Evaluation, as available on the Shared Materials Drive with ERNs 01235378-01235427 EN and 01235428-01235506 KH;
- b. The preface common to each volume of the Choeung Ek Study, submitted by the NUON Chea Defence (E404/2.1.3);
- c. The example of osteological analysis examination, submitted by the NUON Chea Defence, as it is available in both Khmer and English (E404/2.1.4)
- d. The photographs of different implements found at Choeung Ek, submitted by the Co-Prosecutors (E404/1.3); and
- e. The charts summarising the findings of the human remains analysed in each volume, submitted by the Co-Prosecutors (E404/1.4).

6. The Chamber reminds the Co-Prosecutors that the responsibility to ensure the availability of the charts contained in E404/1.4 in the ECCC official languages rests with them as tendering party (see E315, para. 13).

7. The Chamber also grants the NUON Chea Defence request to call Mr. VOEUN Vuthy, in order to allow the parties to question him on the methodology and the processes used in the preparation of the Choeung Ek Study. The Chamber will schedule the testimony Mr. VOEUN Vuthy in due course.

8. Full written reasons for this decision will be issued in due course.