

Doreen CHEN

From: Kenneth William ROBERTS [REDACTED]
Sent: Thursday, June 02, 2016 8:42 AM
To: Leang Chea [REDACTED]; Arun Son; Dale Lysak; Eleonor FERNANDEZ; Marie CAPOTORTO; Phalla Prum; Ang PICH; Sambath Pich; [REDACTED]; Bunkheang Seng; Socheata Seng; Victor Koppe; Vincent De Wilde d'Estmael; William Smith; Nicholas KOUMJIAN; Chanthan Bou; Joseph Andrew BOYLE; Doreen CHEN; Marie Guiraud; Xiaoyang NIE; Sovanna LIV; Sothearith SNGUON; Sothy Kun; Lauren TIPTON; Soumeya MEDJEBEUR; Matteo Crippa; Calvin Saunders; Voleak Touch; Suy-Hong Lim; Russell HOPKINS; Travis Michael FARR; Chorvoin SONG; Rattanak Srea; Leang Seng; Pov VEN; Vanny Keo; Sreypath OUCH; Marina HAKKOU; Clement BOSSIS; Cecile ROUBEIX; Fergal GAYNOR; Lea KULINOWSKI; Ruth Mary HACKLER; Nisha PATEL; Helen Susanne WORSNOP; Coman Kenny; Mayuri ANUPINDI
Subject: RE: Oral submissions on the admission of four disclosure documents (Correction)

Dear Parties,

Further to the emails below received from the Office of the Co-Prosecutors and the NUON Chea Defence, respectively, the Trial Chamber clarifies that Parties are required to submit formal Rule 87(4) requests with respect to prior witness statements. Such requests shall identify the specific documents and the fact that their admission is sought as prior statements of an individual testifying in Case 002/02. No further reasoning is required.

The Chamber considers that Duch's prior statements before the Military Courts fall within the scope of this procedure and directs the NUON Chea Defence to file a brief, written R 87(4) request accordingly.

Best regards,

Ken

From: Doreen CHEN [REDACTED]
 To: Kenneth William ROBERTS [REDACTED]; [REDACTED]
 Cc: William Smith [REDACTED]; [REDACTED]; Mayuri ANUPINDI [REDACTED]; Chanthan Bou [REDACTED]; Arun Son [REDACTED]; Joseph Andrew BOYLE [REDACTED]; Leang Chea [REDACTED]; Coman Kenny [REDACTED]; Matteo Crippa [REDACTED]; Dale Lysak [REDACTED]; Fergal GAYNOR [REDACTED]; Eleonor FERNANDEZ [REDACTED]; Marie Guiraud [REDACTED]; Marina HAKKOU [REDACTED]; Helen Susanne WORSNOP [REDACTED]; Vanny Keo [REDACTED]; Russell HOPKINS [REDACTED]; Nicholas KOUMJIAN [REDACTED]; Lea KULINOWSKI [REDACTED]; Sothy Kun [REDACTED]; Suy-Hong Lim [REDACTED]; Sovanna LIV [REDACTED]; Marie CAPOTORTO [REDACTED]; Soumeya MEDJEBEUR [REDACTED]; Xiaoyang NIE [REDACTED]; Sreypath OUCH [REDACTED]; Nisha PATEL [REDACTED]; Phalla Prum [REDACTED]; Ang PICH [REDACTED]; Sambath Pich [REDACTED]; Cecile ROUBEIX [REDACTED]; Ruth Mary Hackler [REDACTED]; Calvin Saunders [REDACTED]; Bunkheang Seng [REDACTED]; Leang Seng [REDACTED]; Sothearith SNGUON [REDACTED]; Socheata Seng [REDACTED]; Chorvoin SONG <SONG.Chorvoin@eccc.gov.kh>; Rattanak Srea <Srea.Rattanak@eccc.gov.kh>; Lauren TIPTON <TIPTON.Lauren@eccc.gov.kh>; Voleak Touch [REDACTED]; Travis Michael FARR [REDACTED]; Pov VEN [REDACTED]; Victor Koppe [REDACTED]; Vincent De Wilde d'Estmael [REDACTED]
 Date: 05/31/2016 10:44 AM
 Subject: RE: Oral submissions on the admission of four disclosure documents (Correction)

Dear Ken,

Further to Bill Smith's email, the Co-Lawyers for Nuon Chea (the "Defence") have asked me to write you regarding Duch's statements before the military court in 1999.

It has come to the Defence's attention during its preparation for its cross-examination of Duch that the majority of Duch's statements before the military court apparently do not yet have E3 numbers. These documents are part of the D288/6.52/* series, and the ones without E3 numbers appear to be the documents with numbers ending 4.6, 4.7, 4.11, 4.17, 4.23, 4.27, 4.30, 4.31, 4.32, 4.40, 4.44, and 4.45.

In the event that the Chamber determines that parties are no longer required to submit Rule 87(4) applications in respect of prior statements that are "on the case file" (i.e. available on Zylab) but do not have E3 numbers, the Defence seeks the Chamber's clarification whether this would also apply to such statements as well; that is, prior statements that are available on Zylab but not gathered in the course of ECCC proceedings.

If the Chamber determines that Rule 87(4) requests are still required for statements of this kind, then the Defence advises the Chamber that, at the earliest opportunity, it intends to make an oral request for the admission of all of Duch's statements before the military court which are available on Zylab but do not yet have an E3 number. In light of the current hearing schedule, the Defence proposes to make these oral submissions at the outset of the hearing on Thursday, 2 June 2016, prior to the appearance of the witness.

The Defence thanks the Chamber in advance for its consideration and response.

Best regards,
Doreen

Doreen Chen
Senior Legal Consultant
Nuon Chea Defence Team
Extraordinary Chambers in the Courts of Cambodia
National Road 4, Sangkat Chaom Chau, Khan Porsenchey
P.O. Box 71, Phnom Penh, Kingdom of Cambodia

-----Original Message-----

From: Kenneth William ROBERTS [REDACTED]
Sent: Monday, May 30, 2016 3:29 PM
To: William Smith
Cc: Doreen CHEN; [REDACTED]; Mayuri ANUPINDI; Arun Son; Clement BOSSIS; Chanthan Bou; Joseph Andrew BOYLE; Leang Chea; Coman Kenny; Matteo Crippa; Dale Lysak; Fergal GAYNOR; Eleonor FERNANDEZ; Marie Guiraud; Marina HAKKOU; Helen Susanne WORSNOP; Russell HOPKINS; Vanny Keo; Nicholas KOUMJIAN; Lea KULINOWSKI; Sothy Kun; Suy-Hong Lim; Sovanna LIV; Marie CAPOTORTO; Soumeya MEDJEBEUR; Xiaoyang NIE; Sreypath OUCH; Nisha PATEL; Phalla Prum; Ang PICH; Sambath Pich; Cecile ROUBEIX; Ruth Mary Hackler; samonnk@yahoo.com; Calvin Saunders; Bunkheang Seng; Leang Seng; Sothearith SNGUON; Socheata Seng; Chorvoin SONG; Rattanak Srea; Lauren TIPTON; Voleak Touch; Travis Michael FARR; Pov VEN; Victor Koppe; Vincent De Wilde d'Estmael
Subject: Re: Oral submissions on the admission of four disclosure documents (Correction)

Dear Bill,

Your message has been communicated to the Trial Chamber.

Best regards,

Ken

From: William Smith/UNAKRT
To: Kenneth William ROBERTS/UNAKRT@UNAKRT,
Cc: Doreen CHEN [REDACTED]



Date: 05/30/2016 11:27 AM
Subject: Re: Oral submissions on the admission of four disclosure documents (Correction)

Dear Ken,

Please find one small correction to the email just sent.

Based on the TC decision related in your email as to the admissibility of prior statements of testifying witnesses can we confirm with the Trial Chamber that the parties are no longer required to submit Rule 87 (4) applications of prior statements of testifying witnesses, civil parties or experts if they are on the Case 002-02 case file. It is presumed that these documents are automatically admitted as evidence. If you can please advise if this interpretation is correct.

Best Regards Bill

(Embedded image moved to file: pic04607.jpg)

From: William Smith/UNAKRT
To: Kenneth William [redacted]
Cc: Doreen CHEN [redacted]

Concerning the request to obtain color copies of E319/42.3.3.1, E319/42.3.3.2 and E319/42.3.3.3, the Chamber will request these from the Office of the Co-Investigating Judges and place these in the Case File in lieu of the current versions as soon as available.

Best Regards,

Ken

From: Doreen CHEN [REDACTED]
To: Kenneth William [REDACTED]

[REDACTED]

Date: 05/27/2016 08:29 AM
Subject: Oral submissions on the admission of four disclosure documents

Dear Ken, dear parties,

The Co-Lawyers for Nuon Chea (the "Defence") have instructed me to advise the Chamber that, at the next available opportunity, they intend to make a brief oral submission pursuant to Internal Rule 87(4) seeking the admission into evidence of a WRI of Kaing Guek Eav alias Duch, E319/42.3.3 (in Khmer and English), together with its three attachments E319/42.3.3.1, E319/42.3.3.2, and E319/42.3.3.3 (currently only in Khmer). These documents were disclosed from Case 004 and made available to the Defence on 16 March 2016. The Defence intends to use these documents during its cross-examination of Duch.

The Defence notes that in the WRI E319/42.3.3, it appears that the OCIJ showed Duch colour versions of the attachments E319/42.3.3.1, E319/42.3.3.2, and E319/42.3.3.3. However, the versions available to the Defence are only in black and white. Accordingly, the Defence also intends to request, pursuant to Internal Rule 93, that the Chamber request the OCIJ to provide the parties also with the colour versions of the three attachments.

Noting the upcoming hearing schedule, the Defence proposes to make these submissions at the outset of the hearing on Thursday, 2 June 2016, or otherwise at a time that the Chamber deems most convenient.

Best regards,
Doreen

Doreen Chen
Senior Legal Consultant
Nuon Chea Defence Team
Extraordinary Chambers in the Courts of Cambodia National Road 4, Sangkat Chaom Chau,
Khan Porsenchey P.O. Box 71, Phnom Penh, Kingdom of Cambodia

