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អ្នកទទួលបន្ទុកឯកសារ (Case File Officer/L'agent chargé)
..... **JANN RADA**

E319/35/6

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា Kingdom of Cambodia
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TRIAL CHAMBER

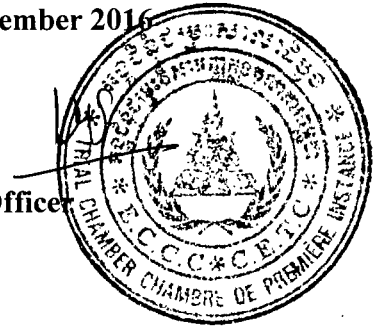
Date: 2 September 2016

TO: All Parties, Case 002

FROM: Judge YA Sokhan, for the President of the Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer

SUBJECT: Ruling on Closed Session Testimony of 2-TCW-1002



1. The Chamber recalls that the International Co-Investigating Judge has requested that 2-TCW-1002 testify in closed session. On 29 August 2016, the Chamber heard submissions of the parties on this proposal. The Co-Prosecutors submit that 2-TCW-1002 is a significant witness in an on-going investigation and that he was never interviewed in Case 002. They have no objection to the request that the witness proceed in closed session. The NUON Chea Defence and Lead Co-Lawyers make no submissions on this point. The KHIEU Samphan Defence notes that the proceedings should be transparent but makes no specific objection to 2-TCW-1002 testifying in closed session.
2. The Chamber recalls that on 20 November 2015, in a memorandum concerning the disclosure of material from Cases 003 and 004 to Case 002 (E319/35), the ICIJ informed the Trial Chamber that, after a review of the evidence provided by witnesses and Civil Parties, he would request for a small number of witnesses who are “central to live matters in ongoing investigations in Cases 003 or 004” (E319/35, para. 3.c), in addition to the use of pseudonym, the use of closed session and other measures necessary “to ensure the integrity of the evidence, and by extension of the investigation” (E319/35, para. 3.c).
3. The Chamber further recalls that, pursuant to Article 34 new of the ECCC Law and Internal Rule 79(6), trials shall be public. However, as recognised both in the ECCC Law and under international law, the right to a public hearing is not absolute. In exceptional circumstances where the interests of justice so require, a court may decide to close the proceedings from the public. The Chamber has previously held that maintaining the confidentiality of an ongoing judicial investigation may amount to ‘good cause’ for closing proceedings (E319/35/5, paras 2-3, 5).

4. Based on the submission of the Co-Prosecutors, the Chamber considers that good cause for proceeding in closed session exists and therefore finds that the testimony of 2-TCW-1002 should be heard entirely in closed session pursuant to Article 34 new of the ECCC Law and Internal Rule 79(6)(b).

5. In order to maximize the public nature of these hearings, the Chamber will redact the closed session transcripts in consultation with the International Co-Investigating Judge (see E319/35/2, para. 4) so that they can be made public. Further, the confidential portions of these transcripts may be reclassified as public at a later stage, should the reasons justifying their redaction cease to exist.