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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

TO: All Parties, Case 002

FROM: Judge YA Sokhan, Presiding Judge

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



SUBJECT: Decision on the Parties' Requests to Admit Documents Pursuant to Internal Rule 87(4) and on NUON Chea's Rule 93 Request Relevant to the Testimony of Expert NAKAGAWA Kasumi (2-TCE-82)

1. The Trial Chamber is seised of three requests filed on 31 August 2016 pursuant to Internal Rules 87(3) & 87(4) to admit into evidence documents relevant to the testimony of expert Ms. NAKAGAWA Kasumi (2-TCE-82). The first request, filed by the Co-Prosecutors, seeks the admission of 2 documents ("Co-Prosecutors' Request", E431/1). The second request, filed by the KHIEU Samphan Defence, seeks the admission of six documents ("KHIEU Samphan Request", E431/2). The third request, filed by the NUON Chea Defence, seeks the admission of two documents. Additionally, the NUON Chea Defence also requests the Chamber, pursuant to Internal Rule 93, to order Ms. NAKAGAWA Kasumi (2-TCE-82) to provide the parties with the recording of the interviews used in the preparation of her research work ("NUON Chea Request", E431/3). The Chamber heard the Parties' oral responses to these requests on 5 September 2016 (T. (Draft) 5 September 2016, pp. 3-21; 24-27)

2. With respect to the Co-Prosecutors' Request, the Trial Chamber grants the request and admits into evidence the following documents (newly assigned document numbers in brackets):

- a. ERNs 01322766-01322839 (E3/10654) – Study entitled “Gender-Based Violence Against sexual Minorities during the Khmer Rouge Regime”, by NAKAGAWA Kasumi, 2015; and
 - b. ERNs 01322840-01322893 (E3/10655) - Book entitled “Motherhood at War: Pregnancy during the Khmer Rouge Regime – Oral History” by NAKAGAWA Kasumi, December 2015;
3. With respect to the KHIEU Samphan Request, the Trial Chamber admits into evidence the following documents:
- a. E431.1 (E3/10656) - Ms. NAKAGAWA Kasumi (2-TCE-82)’s curriculum vitae, also requested by the NUON Chea Defence;
 - b. E431/2.4 (E3/10657) - Article titled “Summary of More than White Cloth: Women’s Rights in Cambodia” by NAKAGAWA Kasumi, 11 October 2010;
 - c. E431/2.5 – 3 Extracts of the Report entitled “Violence Against Women: How Cambodian Laws Against Women”, by the Cambodian Committee of Women (CAMBOW), November 2007:
 - Extract 1 at ERNs 01324383-01324385 (E3/10658) – entitled “Introduction”;
 - Extract 2 at ERNs 01324392- 01324396 (E3/10658a) – entitled “3.Mariage”;
 - Extract 3 at ERNs 01324409-01324415 (E3/10658b) – entitled “Appendix 1. Literature Review” and “Appendix 2. CAMBOW Members”;
 - d. E431/2.6 (E3/10659) - Document entitled “*Chbab Srey*”;
 - e. E431/2.7 (E3/10660) – Article entitled “There is no place for ‘*Chbab Srey*’ in Cambodian Schools” by Kelly Grace and Sothy Eng, *The Cambodia Daily*, 9 June 2015; and
 - f. E431/2.8 – 8 Extracts of the Report entitled “US Aid/Cambodia Gender Assessment”, by the United States Agency for International Development (USAID), September 2010.
 - Extract 1 at ERN 01324446 (E3/10661) – entitled “Acknowledgments”;
 - Extract 2 at ERN 01324457 (E3/10661a) – entitled “Purpose and Methodology”;
 - Extract 3 at ERNs 01324461- 01324463 (E3/10661b) – entitled “Findings: Gender Attitudes and Relations”;

- Extract 4 at ERNs 01324466- 01324468 (E3/10661c)– entitled “Findings: Gender and the Judicial System”;
 - Extract 5 at ERN 01324468 (E3/10661d) – entitled “Findings: Gender Justice”;
 - Extract 6 at ERNs 01324507-01324508 (E3/10661e) – entitled “Assessment Methodology”;
 - Extract 7 at ERNs 01324510-01324515 (E3/10661f) – entitled “Annex 2: References; and
 - Extract 8 at ERNs 01324516-01324518 (E3/10661g) – entitled “Annex 3: Key Informant Interviews”.
4. With respect to the NUON Chea Request, the Trial Chamber admits into evidence the following document:
- a. E431/3.2 (E3/10662) - Expert Report entitled “Expert Report on the Phenomenon of ‘forced marriage’ in the Context of the Trials against the RUF and AFRC Accused Only” by Zainab H. Bangura and Christiana T. Salomon, May 2005, attached as an annex to SCSL, Case SCSL-204-16-T, Prosecution Filing of Expert Report Pursuant to Rule 94(*bis*) and Decision on Prosecution request for Leave to call an Additional Expert Witness, 8 August, 2015.
5. On 5 September 2016, through the Witness and Expert Support Unit (WESU), Ms. NAKAGAWA Kasumi (2-TCE-82) informed the Chamber that she could not provide the recording of the interviews requested by the NUON Chea Defence as she destroyed all the records, transcripts, translations and tapes of the interviews used in the preparation of her research work. Accordingly, the Chamber finds that the NUON Chea Rule 93 Request is moot.
6. Written reasons for this decision will be issued in due course.