



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

Request for Correction

ឯកសារដើម
ORIGINAL/ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ (Date): 26-Apr-2012, 08:16
CMS/CFO: Kouv Keoratanak

Case :

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E188	00802387-00802392	25-04-2012	<input checked="" type="checkbox"/> Change to Original <input type="checkbox"/> Change to Translation <input type="checkbox"/> Reclassification

Reason for changes:

Correcet pharagraph 6, 8 and 11 in ERN 00802389 and 00802390

Details:

Filed by: Phann Sochea, CCP's Greffier

Approved by Greffier (for originals):

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Signature:

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Signature:

002/19-09-2007-ECCC/TC

6. The Trial Chamber has recently provided additional advance information regarding the scheduling of the testimonies of expert witnesses.³ The Co-Prosecutors note that two of the expert witnesses who will not be testifying in the immediate future (David Chandler and Henri Locard) are aged over 70 years. The Chamber may also wish to take into account this fact in scheduling their testimonies.

Deleted: Francois Ponchaud

III. SCOPE OF TESTIMONY TO BE GIVEN BY ELDERLY WITNESSES

7. The Chamber has indicated that, in the course of this trial, an oral application should be made by any party which seeks to question a witness or civil party on all matters relevant to Case 002, including matters that may form the subject of future trials.⁴ In order to facilitate effective trial management, the Co-Prosecutors give this advance notice of their intended requests to examine the elderly witnesses and civil parties listed in Annex A on the full scope of Case 002. The notice is based on a good faith assessment of the age and available statements of witnesses on the Current Witness List, and is without prejudice to the Co-Prosecutors' right to make future requests with respect to other witnesses or civil parties who may be unavailable to testify in subsequent trials.
8. The issue of the scope of testimony of elderly witnesses and civil parties must be considered in the context of the current stage and level of complexity of the case. As ruled by the Chamber, the evidence adduced in this trial may be relied upon in, and is thus foundational in relation to, subsequent trials in Case 002.⁵ The present phase of trial 002/1 deals with highly complex factual and contextual issues, including the establishment of the five criminal policies alleged in the Closing Order.⁶ Given the breadth and complexity of these issues, it would appear unlikely that the first phase can be concluded before the end of 2012. Of course, the second phase will itself involve hearing a number of witnesses in relation to the crime base events identified in the Severance Order, and any other portions of the Closing Order which the Chamber may include in this first trial.⁷
9. Considering these factors, it would be reasonable to estimate that the commencement of the next trial is well over a year, and possibly closer to two years, away. Therefore, despite the

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³ E172/17 - Further Information Regarding Scheduling of Proposed Experts, 17 April 2012.

⁴ E145 - Notice of Trial Chamber's disposition of remaining pre-trial motions (E20, E132, E134, E135, E124/8, E124/9, E124110, E136 and E139) and further guidance to the Civil Party Lead Co-Lawyers, 29 November 2011, p 3.

⁵ E124/7 - Decision on Co-Prosecutors' Request for Reconsideration of the Terms of the Trial Chamber's Severance Order (E124/2) and Related Motions and Annexes, 18 October 2011, para 10.

⁶ E124 - Severance Order Pursuant to Rule 89ter, 22 September 2011, para 1.

⁷ Ibid, paras 5 and 6.

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Chamber's best efforts to manage an extremely complex case in a very efficient manner, the advanced age of witnesses referred to in **Annex A** gives rise to a real risk that some or all of them will not be available to testify in subsequent trials. Some of the witnesses named in the Chamber's current list have already been found to be unavailable.⁸

10. Although more detailed oral applications will be made in due course for each of the witnesses and civil parties, the following paragraphs set out the general considerations which are relevant to these individuals.

11. In many cases, testimonies of the individuals listed in **Annex A** on the full scope of Case 002 ~~are unlikely to significantly extend the time required for their examination:~~

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- a) Witnesses whose testimony is primarily focused on the structures and functioning of the Communist Party of Kampuchea (CPK) and the Democratic Kampuchea (DK) regime and roles of the Accused, will need to be examined on the entire period covered by the Closing Order, to provide a foundation for subsequent trials as directed by the Chamber. Of the elderly witnesses identified in **Annex A**, TCW-724, TCW-583, TCW-694, TCW-234 and TCW-482, fall into this category. These witnesses are not expected to give extensive eye witness testimony on specific crime sites included in the Closing Order. To the extent that their evidence would go to the policy implementation issues which are not subject of the first trial, it would not unduly extend their testimony.
- b) The testimony of witness TCW-536, in so far as he is able to provide eye witness evidence in relation to the crime base, will primarily relate to facts which are in fact the subject of this trial (the forced evacuations of Phnom Penh and other urban centres). The evidence which he is able to give on the basis of his research, like the evidence of the above witnesses, is relevant to contextual issues, the functioning of the regime and its policies, and thus also largely falls within the scope of the present trial. Any further information which he is able to provide on issues that relate to the implementation of policies to be dealt with in future trials will likely require little additional time.
- c) The testimony of witness TCW-321 also largely falls within the scope of the first trial, insofar as it relates to the historical background, regional authority structure and the functioning of CPK and DK bodies (in particular those dealing with commerce and industry). The witness's testimony on the implementation of the policies towards

⁸ Thus far, they include TCW-297 and TCW-601.