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អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King

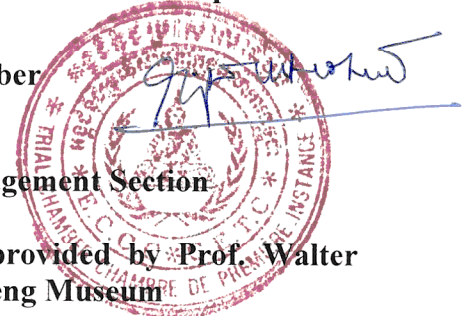
Royaume du Cambodge
Nation Religion Roi

TRIAL CHAMBER

TO: All Parties, Case 002

Date: 5 April 2019

FROM: NIL Nonn, President of the Trial Chamber



CC: All Trial Chamber Judges; Court Management Section

SUBJECT: Proposed transfer of S-21 materials provided by Prof. Walter Heynowski (2-TCW-946) to the Tuol Sleng Museum

1. The Trial Chamber is in receipt of a letter dated 2 April 2019 from the Tuol Sleng Museum Office Chief, Mr Chhay Visoth (E443/11), seeking clarification on when the Museum can expect to receive the S-21 Security Centre documents provided to the Chamber by Prof. Walter Heynowski. Mr Chhay emphasises that the transfer of these materials (including photographs and a logbook) to the Tuol Sleng Museum was the express wish of Prof. Heynowski and notes that they are historic documents which appear to include unique information currently unavailable to the Tuol Sleng Museum and other researchers. Mr Chhay states that the Museum would appreciate receiving them as soon as possible, both to begin the process of evaluation and to inspect whether they contain information which would be of value to the Museum’s forthcoming exhibition in August 2019 tentatively entitled “40 years: Remembering the victims of S-21”. Lastly, Mr Chhay indicates that the Museum expects to retain an expert paper conservator to work on documents of extreme fragility and extends his assurance that the parties to Case 002/02 will have the ability to inspect the originals on a needs basis.

2. The Chamber recalls that during trial proceedings in Case 002/02, it sought information from Prof. Heynowski regarding his knowledge of relevant S-21 documents in lieu of hearing his testimony (E443). On 2 December 2016, the Trial Chamber’s greffier received from Prof. Heynowski an orange logbook with about 246 pages containing entries and several loose pages in German and Khmer which were severely deteriorated (E443/2, para. 6). On 26 December 2016, the greffier received a further package from Prof. Heynowski containing photographs, many of which were in poor condition or stuck together (E443/2/1).

3. Turning first to the deteriorated loose pages received on 2 December 2016, the Chamber observed that they were of such poor quality that they could not be scanned by the Records and Archives Unit (“RAU”) without risking further damage (E443/2,

para. 8). The Chamber accordingly ordered an investigation pursuant to Internal Rule 93 to obtain a description, scanned copy and assessment of their uniqueness and authenticity to ensure preservation for their possible use as evidence in Case 002/02 (E443/5). The Chamber forwarded these documents to the Tuol Sleng Museum and requested that they be examined and that a preliminary analysis be provided indicating, *inter alia*, whether it was possible to preserve and scan or photograph them (E443/4, E443/5). After an examination of the materials, the Office Chief of the Tuol Sleng Museum informed the Chamber that the documents were so acidic and deteriorated that preservation was difficult and that further assessment of their contents was impossible (E443/4/1). The Chamber resultantly closed its investigation and invited the Tuol Sleng Museum to continue to pursue efforts to preserve and restore the documents and seek international support in this regard (E443/9). The documents were physically transferred to the Tuol Sleng Museum on 29 December 2016 (*see* E443/4.1) and have not been admitted as evidence in Case 002/02.

4. The pages of the orange logbook received on 2 December 2016 were photographed by RAU, transcribed into English and put before the Chamber as E3/10770 (*see* E443/3, paras 1-3). The physical condition of the logbook and photographs received on 26 December 2016 was also photographed, saved to the Shared Materials Drive and later admitted into evidence as E3/10785, E3/10786, E3/10787, E3/10788 and E3/10789 (*see* E443/6). The originals have remained in the ECCC's archive since their receipt.

5. The Chamber has expressly undertaken to provide the logbook and photographs to the Tuol Sleng Museum in accordance with Prof. Heynowski's wishes (E443/2, para. 8; E443/4, para. 2). In light of the issuance of the fully-reasoned judgment in Case 002/02, the potentially unique materials provided by Prof. Heynowski and the need to preserve the logbook and photographs for posterity, the Chamber considers it appropriate to transfer these documents to the Tuol Sleng Museum at this time.

6. Subject to any objections by the parties, the Chamber intends to issue an order requesting that access to the originals be provided to the parties in Case 002/02 upon request. If the Chamber does not receive any objections by **22 April 2019**, it will proceed with facilitating the transfer of the notebook and photographs to Tuol Sleng Museum.