

**Declassified to Public  
05 April 2019**

E443/3



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

**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

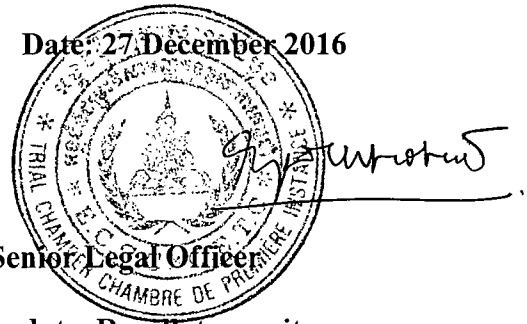
Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

**TRIAL CHAMBER**

**TO: All Parties, Case 002**

**Date: 27 December 2016**

**FROM: NIL Nonn, President of the Trial Chamber**



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

**SUBJECT: Decision on Request to Admit Logbook and to Recall two witnesses regarding S-21 (CONFIDENTIAL)**

1. The Chamber recalls that it obtained an S-21 logbook from Prof. Walter Heynowski and provided an electronic copy to the parties as well as access to the original document (See E443/2). The Chamber is now seized of the Co-Prosecutors oral request made on 9 December 2016, to admit the logbook. They submit that the logbook, which provides daily records of the number of persons in and out of S-21 over a period of eight months in 1977, is very relevant (T. 16 December 2016, pp. 9-10 (DRAFT)). The NUON Chea Defence agree that the document is highly relevant and do not object to it being admitted into evidence (T. 12 December 2016, pp. 55-56). The KHIEU Samphan Defence submit that if the logbook is admitted, Duch and SUOS Thy should be recalled to examine the authenticity of the documents as this is the first time that anyone has seen the original logbook. It also requests that Prof. Heynowski be summoned to testify about chain of custody and annotations on the documents (T. 16 December 2016, pp. 16-17 (DRAFT)).

2. According to Internal Rule 87(4), the Trial Chamber may admit, at any stage of the trial, all evidence that it deems conducive to ascertaining the truth, where that evidence also satisfies the *prima facie* standards of relevance, reliability and authenticity required under Rule 87(3). The Chamber determines the merit of a request to admit new evidence in accordance with the criteria in Rule 87(3).

3. The Chamber considers that the orange logbook is directly relevant to a crime site within the scope of the current trial. The Chamber finds the document to be *prima facie* relevant and reliable (including authentic). Therefore the Chamber admits the orange logbook as evidence and accords it document number E3/10770.

4. The related request by the KHIEU Samphan Defence to re-call SOUS Thy and Duch to authenticate and testify about the content of the logbook is denied. At the time these witnesses testified in Case 002/02, both were shown excerpts of the film “*Die Angkar*” showing the orange logbook obtained from Prof. Heynowski, who was the producer of the film. SUOS Thy recognised the logbook in the film and testified that he was responsible for maintaining it (T. 6 June 2016, pp. 73-78). Duch testified that he never had access to this type of log at S-21 as he was focused on confessions (T. 15 June 2016, pp. 91-93). Furthermore, the parties had an opportunity to question both witnesses as to the content of dozens of similar log sheets which were available to them at the time of the witnesses’ testimony (*See e.g.*, E3/10075, E3/10036). The Chamber is therefore not convinced of the necessity of recalling these witnesses.

5. The Chamber remains seised of the request to hear the testimony Prof. Heynowski.