

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC **Party Filing:** Co-Prosecutors
Filed to: Trial Chamber **Original Language:** English
Date of document: 4 December 2012

CLASSIFICATION

**Classification of the document
suggested by the filing party:**

PUBLIC, WITH CONFIDENTIAL ANNEX

Classification by the Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:



**CO-PROSECUTORS' REQUEST TO DISCLOSE A PRIOR INTERVIEW OF
WITNESS TCW-247, WITH CONFIDENTIAL ANNEX A**

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1. Pursuant to Internal Rules 87(4), 53(4) and 21(1), the Co-Prosecutors respectfully seek leave to put on the Case File a summary record of an interview conducted with Witness TCW-247 on 14 February 2007 (Record of Interview).¹ This document was located in the Co-Prosecutors' database as part of the preparation for the examination of this Witness.
2. The short interview which took place on 17 February 2007 was part of enquiries made by the Co-Prosecutors in the course of their preliminary investigation in this case. The Record of Interview is available only in the English language, but is less than 2 pages in length. There are no other records of this interview.
3. Although the ECCC Internal Rules do not explicitly require the Co-Prosecutors to disclose all prior statements of witnesses whom the Trial Chamber calls to testify, the Co-Prosecutors have taken the view that such disclosure is prudent and consistent with international standards.² In response to a prior request for directions with respect to strictly confidential statements given by potential trial witnesses in other cases, the Chamber ruled that disclosure of such statements (in the first instance to the Chamber) was in the interests of ascertaining the truth,³ and subsequently made the statements available to all the parties.⁴
4. While the Co-Prosecutors are not of the view that the Record of Interview contains information that may be exculpatory, they nevertheless submit that it would be in the interests of justice to place it on the Case File and make it available to the Chamber and all the parties for their review.

Respectfully submitted,

Date	Name	Place	Signature
4 December 2012	YET Chakriya Deputy Co-Prosecutor	Phnom Penh	
	William SMITH Deputy Co-Prosecutor		

¹ Confidential Annex A - ERN 00089733-00089734.

² **E233/1** Co-Prosecutors' Rule 87(4) Request Regarding DC-Cam Interview of TCW-428, 25 September 2012, E233/1; **E127** International Co-Prosecutor's Disclosure to Trial Chamber Regarding Interviews of Case 002 Witnesses in Cases 003 and 004 with Strictly Confidential Annex A, 6 October 2011, para. 12. The requirement to disclose prior witness statements is enshrined in, *inter alia*, Rule 76 of the International Criminal Court's Rules of Procedure and Evidence (RoPE) and Rule 66 of RoPE of the International Criminal Tribunal for the Former Yugoslavia.

³ **E127/4** Memorandum entitled "Disclosure of witness statements for witnesses who may testify in Case 002," 24 January 2012.

⁴ **E127/6** Memorandum entitled "Reclassification of statements for witnesses who may testify in Case 002," 29 February 2012.