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ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

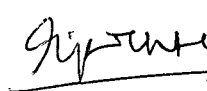
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King
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សាធារណៈ / Public

TRIAL CHAMBER

TO: All Parties, Case 002 **Date:** 16 October 2014

FROM: NIL Nonn, President of the Trial Chamber 

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

SUBJECT: Decision on KHIEU Samphan's urgent request for reconsideration of scheduling order on the substance of Case 002/02



1. The Trial Chamber is seised of a request by the KHIEU Samphan Defence to reconsider its "Scheduling Order for Hearing on the Substance in Case 002/02" ("Scheduling Order"), to postpone the commencement of proceedings in Case 002/02 until after the filing of the Defence Appeal Brief in Case 002/01, and to suspend the start of trial in Case 002/02 until a decision on this request is rendered (E314/5/1). The KHIEU Samphan Defence submits that, based on the jurisprudence of the Pre-Trial Chamber and the Supreme Court Chamber, a trial chamber may reconsider its previous decision (E314/5/1, paras 3, 26 and p. 11). The Office of the Co-Prosecutors filed its response on 13 October 2014 opposing the request (E314/5/2).
2. The Trial Chamber recalls that reconsideration does not form part of the ECCC legal framework. The Trial Chamber will therefore only consider a request anew where a "fresh application justified by new evidence or new circumstances is made" (E282/2/1/2, para. 3; E299/2, para. 5; E238/11/1, paras 7-8; E292/2/1, para. 4).
3. The Trial Chamber notes that it has already considered and dismissed previous, similar requests from the KHIEU Samphan Defence to delay the proceedings in Case 002/02 (E314/5; E301/5/5/1). The Defence fails to demonstrate the existence of new circumstances or evidence which would justify this new application. The Defence argument that it cannot draft its appeal brief while participating in Case 002/02 because of insufficient resources (which implies the related argument regarding equality of arms) has already been raised in the Further Initial Hearing (E1/240.1, p.39) and taken into consideration by the Chamber when it issued the Scheduling Order. The Chamber recalls that scheduling orders are basically trial management tools and as such do not require

detailed reasoning. The Defence further points out that since March 2014 KHIEU Samphan has been hospitalized twice, implying a change of circumstances. The Chamber notes that these hospitalizations were of short duration and the Accused has since fully recovered, and considers that they do not disturb the conclusions of the previous medical report. As such, they do not constitute new circumstances.

4. The Trial Chamber accordingly rejects the KHIEU Samphan Defence request.