



ឯកសារដើម
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du dossier: SANN Rada

E319/7/2

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
Royaume du Cambodge
Nation Religion Roi

សាធារណៈ / Public

TRIAL CHAMBER

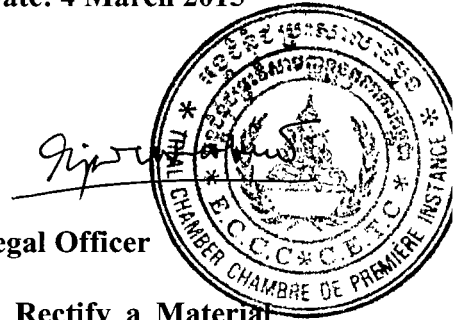
Date: 4 March 2015

TO: All Parties, Case 002

FROM: NIL Nonn, President of the Trial Chamber

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

SUBJECT: Decision on KHIEU Samphan Defense Request to Rectify a Material Error in Decision E319/7



1. The Trial Chamber is seised of a request from the KHIEU Samphan Defence to rectify a material error in paragraph 7 of Decision E319/7 (E319/7/1, paras. 1-6). The English and Khmer versions of this decision indicate that the KHIEU Samphan Defence objected to paragraph 5(a) of the International Co-Prosecutor’s Proposed Procedure for Use of Witness Statements from Case Files 003 and 004¹ (E319/7, para. 7 and fn. 16). The KHIEU Samphan Defence submits that its reservation pertained in fact to paragraph 5(e) of the International Co-Prosecutor’s Proposed Procedure, referring in support to the French version of the transcripts of the Trial Management Meeting held on 28 October 2014 (E319/7/1, para. 5). No Party responded to this request.

2. The Trial Chamber notes that paragraph 7 of Decision E319/7 relied on the English version of the transcripts, which indicated that the KHIEU Samphan Defence had objected to paragraph 5.1 of the International Co-Prosecutor’s Proposed Procedure (E1/244.1/Corr.3, p. 13). In the absence of a paragraph 5.1 in the International Co-Prosecutor’s Proposed Procedure, the Trial Chamber inferred that KHIEU Samphan Defence’s objection pertained to paragraph 5(a) (E319/7, fn. 16). The English version of the transcripts has subsequently been corrected to accurately reflect the French version, which indicates that the KHIEU Samphan Defence stated a reservation with respect to the practice set out in paragraph 5(e) of the International Co-Prosecutor’s Proposed Procedure (T. 28 October 2014, p. 18).

¹ See E319/2 (“International Co-Prosecutor’s Proposed Procedure”). Paragraph 5(a) suggests refraining from referring to written records of interviews from Cases 003 and 004 in public session but instead to identify these records by the Case 002 document assigned by the Trial Chamber.

3. In light of the above, the Trial Chamber considers that paragraph 7 and footnote 16 of Decision E319/7 contain a material error pertaining to the nature of KHIEU Samphan Defence's reservation to the International Co-Prosecutor's Proposed Procedure. Pursuant to its inherent power to correct material errors appearing in its decisions, the Trial Chamber considers that this material error is suitable for rectification without altering the outcome of the Decision. Accordingly, the Trial Chamber grants the KHIEU Samphan Defence's request for rectification and considers that it is necessary to make the following corrections to the Decision:

Paragraph 7 of Decision E319/7 shall read as follows:

No written responses to the Proposed Procedure were filed. At the Trial Management Meeting held on 28 October 2014, when asked by the Trial Chamber for objections to the Proposed Procedure, the NUON Chea Defence did not state its position. The KHIEU Samphan Defence noted that the Proposed Procedure is similar to the practice that it has appealed in Case 002/01 and **expressed its reservation to the practice of providing the witnesses their previous statements and giving them the possibility to review these statements before their testimony in court.**~~the proposed provision which bars reference to confidential written records of interview as originating from Case 003 or Case 004 during public session.~~ The KHIEU Samphan Defence stated no other objections.

Footnote 16 shall read as follows:

T., 28 October 2014, p. 18 ~~referring~~ ~~The KHIEU Samphan Defence objected to paragraph "5.(e)1"~~ of the Proposed Procedure. ~~Presumably, the KHIEU Samphan Defence meant to refer to para. 5(a) of the Proposed Procedure instead.~~

4. The Trial Chamber will issue a corrected version of the Decision, which will be available at E319/7 and E319/7_corr.

5. This constitutes the Chamber's official response to E319/7/1.