



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

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

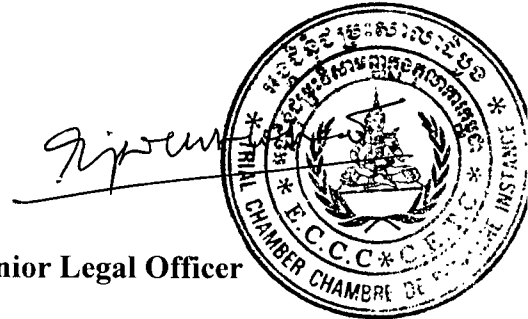
Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

សាធារណៈ / Public

TRIAL CHAMBER

Date: 08 May 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: Video-Link Decision for 2-TCW-979 and 2-TCW-822



1. On 24 April 2015, the Chamber informed the Parties by email that it would hear 2-TCW-979 and 2-TCW-822 by video-link (Attachment 1). During the hearing of 4 May 2015, following an objection by the KHIEU Samphan Defence, the President explained that these Witnesses could not be heard in person due to their respective health conditions (T. 4 May 2015 (draft), pp 4-5). The Chamber hereby provides further reasoning for its decision to hear these witnesses by video-link.

2. Pursuant to a request by the Office of the Co-Prosecutors (E319/17), the Trial Chamber decided to hear 2-TCW-979 (E319/17/1). Following an initial report from WESU indicating that the Witness was too ill to travel to Phnom Penh, the Trial Chamber requested an independent medical assessment of the Witness in order to establish if she could travel to Phnom Penh to testify (E29/470). The medical report prepared on the basis of this assessment concluded that, based on the Witness' medical conditions (which include high blood pressure, diabetes, and arthritis), the Witness was not capable of traveling for hundreds of kilometres to Phnom Penh to testify for the ECCC (E29/470/1, p. 5) and recommended that testimony be given by way of video-link.

3. Witness 2-TCW-822 was originally scheduled to testify on 19 March 2015. However, due to serious health conditions, he was hospitalised in Phnom Penh and could not testify (see T. 19 March 2015, p. 23). The doctors informed WESU at that time that the Witness was not fit to testify and that he should return to his residence and continue

his treatment. WESU subsequently followed up with the Witness and established that his condition has deteriorated as he is unable to afford the prescribed medical treatment (Attachment 2).

4. The Trial Chamber recalls that according to Internal Rule 26, the testimony of a witness or expert during trial shall be given in person, whenever possible. However, the Chamber may allow testimony by means of audio or video technology, provided that such technology permits the witness to be interviewed by the Chamber and the parties at the same time the witness so testifies (Internal Rule 26 (1)).

5. The decision of whether to grant video-link testimony is a matter within the broad discretion of the Trial Chamber. It is for the Chamber to assess the needs of the individual if exceptional measures are proposed. The Trial Chamber has held that testimony by video-link may generally be granted where circumstances require (E166/1/4, p. 1) and has previously granted video-link testimony where medical issues rendered the witness unable to travel (E334; E1/151; E236/1/4/3).

6. In light of the Witnesses' respective health conditions, the Chamber finds that it is appropriate to hear these Witnesses by video-link. The Trial Chamber also finds that the use of video-link in these circumstances is not seriously prejudicial to or inconsistent with defence rights (see Internal Rule 26 (1)).