



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ឯកសារដើម

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ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia

Nation Religion King

Royaume du Cambodge

Nation Religion Roi

TRIAL CHAMBER

សាធារណៈ / Public

Date: 22 April 2016

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 to admit into evidence document D175/3.43



1. At the hearing of 6 April 2016, the Trial Chamber ruled on the admission of document D175/3.43. This document is a DC-Cam statement of witness 2-TCW-827 dated 10 October 1999. The ruling was made following reference to this document by the Civil Party Lead Co-Lawyers during the examination of witness 2-TCW-827. No party objected to the admission into evidence of document D175/3.43 (Draft T. 6 of April 2016, pp. 47-49). The Trial Chamber hereby provides reasons for its decision.

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). Rule 87(4) also requires that any party seeking the admission of new evidence shall do so by a reasoned submission. The requesting party must satisfy the Trial Chamber that the proposed evidence was either unavailable prior to the opening of the trial or could not have been discovered with the exercise of reasonable diligence. However, in certain cases, the Chamber has admitted evidence which does not strictly speaking satisfy this criterion, including in instances where evidence relates closely to material already before the Chamber and where the interests of justice require the sources to be evaluated together, and where the proposed documents are exculpatory and require evaluation to avoid a miscarriage of justice (E276/2, para. 2 referring to E190 and E172/24/5/1; E260, para. 5).

3. The Trial Chamber finds that it is in the interests of justice to admit into evidence document D175/3.43. In this document, witness 2-TCW-827 gives account of his experience as an Islamic religious teacher and religious leader in Speu village prior to and during the Khmer Rouge regime. In his statement, witness 2-TCW-827 provides

information about the arrest, killing, evacuation and dispersal of Cham people as well as the mistreatment of Cham and, more generally, the restrictive policies imposed on their religious and cultural traditions (D175/3.43, pp. 3-4, 7-8). Witness 2-TCW-827 also refers to a meeting in Bos Khnaor where high-ranking Khmer rouge officials noted that the biggest enemies of Angkar were the Cham and had to be destroyed (D175/3.43, pp. 4-6). Accordingly, the Chamber finds that this statement is conducive to ascertaining the truth and is *prima facie* relevant to Case 002/02.

4. The Trial Chamber recalls that it is established practice to admit into evidence statements of witnesses given prior to the date of their testimony. The statement at issue being a DC-Cam statement, taken by Ysa Osman, meets also the *prima facie* criteria of reliability and authenticity.

5. The Trial Chamber therefore finds that the requirements of Internal Rule 87(4) have been satisfied and admits document D175/3.43 into evidence in Case 002/02. Number E3/9750 has been assigned to the statement.