

E9115



ឯកសារបញ្ជាក់ថាជាកម្រិតដ៏ត្រឹមត្រូវតាមច្បាប់ខ្មែរ
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ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification):
 21 / Aug / 2009

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
 du dossier: UCH ARUN

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

អង្គជំនុំជម្រះសាលាដំបូង
 Trial Chamber
 Chambre de Première instance
 No. 48

ឯកសារទទួល
DOCUMENT RECEIVED/DOCUMENT REÇU

ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de reception):
 21 / 08 / 2009

ពេលវេលា (Time): 14 : 50

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
 du dossier: SANN RADA

His Excellency ANN VONG Vathana, Minister of Justice

Through: His Excellency Acting Director of the Office of Administration of the
 Extraordinary Chambers in the Courts of Cambodia

Subject: Information about the 1956 Penal Code of Cambodia and request
 authentication of an authoritative Code

Reference: Letter No. 38 ECCC/TC of the Trial Chamber dated 23 April and No. 45
 ECCC/TC dated 30 June 2009

With the above subject and reference, I would like to inform your Excellency that the
 Trial Chamber, via the Office of the Administration, wrote two official letters dated 23
 April 2009 and 30 June 2009, requesting Your Excellency to provide an authoritative of
 the 1956 Penal Code of Cambodia as the ECCC's Law has referred to some articles to be
 applied before the ECCC.

So far, the Trial Chamber has not have an authoritative of the 1956 Penal Code and the
 Trial Chamber, through its requests, has also not recieved any official response from the
 Ministry of Justice.

None existence of an authoritative legal text has caused the Trial Chamber facing a
 challenge wheather which one of the Cambodian 1956 Penal Codes in which the
 Agreement between the RGC and the UN as well as the ECCC's Law has referred to, so
 as the Trial Chamber can use as a basic for interpretation when it makes decision.
 According to a research conducted by the Trial Chamber, it found that there is a Penal
 Code of Cambodia in French which was published in the judicial collections of the
 Ministry of Justice (recueil judiciaire, Numéro special, année 1956), Special Number,
 1956. This document is kept at the National Archives of Cambodia, but this Penal Code
 was not officially published in Khmer, in 1956. By contrast, the Penal Code in Khmer
 was prepared and compiled in the 1960s by a staff working at the Ministry of Justice
 during that time. The validity of this Code in Khmer is posing a legal challenge in which
 the

Chamber is not entitled to determine which Code is applicable as a basis for interpretation before the Trial Chamber when it makes decision concerning the Case File 001.

Another issue to which the Chamber also pays attention is whether there was any amendment to any particular article of the 1956 Penal Code of Cambodia or relevant articles referred by the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia. According to the examination on the Royal Gazette that published every year from 1956 to 1973, there was not any amendment to the provisions of the Code referred to by the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia.

Accordingly, as informed above, may Your Excellency authenticate one of the any 1956 Penal Codes of Cambodia so as the Trial Chamber may have it authoritatively. It would be much appreciated if it could be done by the end of August.

Please accept, Your Excellency, the assurances of my utmost regards.

Phnom Penh, 17 August 2009

President of the Trial Chamber

[Signature and Seal]

NIL Nonn