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អង្គទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé  
du dossier: ..... SANN P. P. O. A .....

E319/35/19

**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

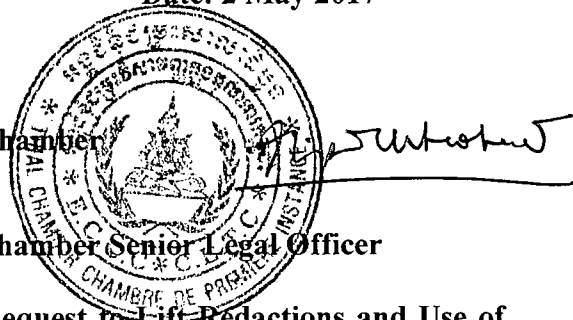
សាធារណៈ / Public

**TRIAL CHAMBER**

**TO: All Parties, Case 002/02**

**Date: 2 May 2017**

**FROM: NIL Nonn, President of the Trial Chamber**



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

**SUBJECT: Decision on the Co-Prosecutors' Request to Lift Redactions and Use of Pseudonyms for Case 002/02 Testimony**

1. The Trial Chamber is seized of a motion filed by the Co-Prosecutors on 20 February 2017 requesting that, absent cogent reasons to maintain redactions of Case 002/02 transcripts or use pseudonyms for Case 002/02 witnesses, the Chamber make all Case 002/02 transcripts fully public (E319/35/7, para. 4)(“OCP Request”). The Co-Prosecutors submit that these measures were requested by the International Co-Investigating Judge (ICIJ), and agreed by the Trial Chamber, to protect the identities of witnesses who had also given evidence in Cases 003 and 004 (E319/35/7, para. 1). They submit that the interests of a public trial require that the content of testimony and the identity of those providing testimony be accessible to the public by permitting the filing of Closing Briefs and reference to such information in the Closing Statements, unless there is a demonstrable concern for the safety of a witness or the integrity of ongoing investigations (E319/35/7, para. 3).

2. On 3 March 2017, the Trial Chamber forwarded the OCP Request to the ICIJ seeking his view as to whether the integrity of the investigations in Cases 003 and 004 still required the measures which apply to transcripts and witnesses in Case 002/02, or whether these may now be lifted (E319/35/8). The ICIJ responded on 6 March 2017, requesting the Chamber to order the Prosecution to list explicitly which witnesses/statements it seeks to have re-evaluated (E319/35/9.1). On 13 March 2017, the Trial Chamber forwarded the ICIJ’s response to the Co-Prosecutors, inviting a response (E319/35/9). The International Co-Prosecutor responded on 24 March 2017 providing the requested information to the Chamber and the ICIJ and reiterating his submissions on the need to have a public and transparent process by filing public Closing Briefs

(E319/35/10). On 30 March 2017, the Chamber forwarded these submissions to the ICIJ, requesting to be informed on or before 14 April 2017 of his response (E319/35/11). Due to a clerical error, the ICIJ was only notified of this last memorandum on 21 April 2017.

3. The ICIJ responded on 24 April 2017, acknowledging the two submissions of the OCP (E319/35/7 and E319/35/10), indicating that he would not be able to prioritise the OCP Request within the time set by the Chamber for the filing of closing briefs due to the need to focus his limited staff resources on his primary mandate, and requesting that the Trial Chamber require the parties to respect the measures already in place (E319/35/12.1).

4. The Chamber recalls that it has undertaken to respect the conditions requested by the ICIJ for the disclosure of Cases 003 and 004 statements in Case 002 including the use of pseudonyms for witnesses, the hearing of certain witnesses in closed session and the publication of those hearing transcripts in redacted form (E319/35/5). Although there is a right to a public hearing, proceedings may be closed where a public hearing would be prejudicial to public order by, for example, causing detriment to ongoing investigations (E319/35/5, paras 4-5). The Chamber reiterates that the Office of the Co-Investigating Judges is best placed to assess whether the factors which have justified the conditions imposed have changed and in particular whether the disclosure of this protected information could adversely impact upon the integrity of ongoing judicial investigations (E319/35/5, para. 5). The Chamber is not in a position to lift redactions to transcripts or to permit reference to witnesses' names which are protected by ICIJ orders until such time as the ICIJ indicates that making this information public will not affect the integrity of the Case 003 and 004 investigations. For this reason, the Chamber denies the OCP Request.

5. The Chamber recognises that protected information, including witness names and closed session testimony, will be cited in the Closing Briefs. Consequently, the Chamber orders that all Closing Briefs in Case 002/02 be filed confidentially by the previously noted deadline of **2 May 2017**, with public redacted versions to be submitted by **16 May 2017**. Upon new information from the ICIJ, the Chamber will revisit the need to retain the confidentiality of the Closing Briefs.

6. This constitutes the Trial Chamber's official response to E319/35/7 and E319/35/10.