



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

ឯកសារដើម

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E371/2
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ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
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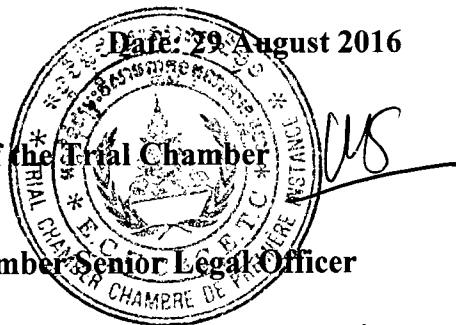
TRIAL CHAMBER

TO: All Parties, Case 002

FROM: Judge Ya Sokhan, for the President of the Trial Chamber

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

SUBJECT: Request for Oral Submissions on Parties' Requests to hear testimony of Ewa Tabeau



1. The Chamber is seised of requests from the NUON Chea Defence and the Co-Prosecutors to hear the testimony of Demographer Ewa Tabeau.

2. The NUON Chea Defence requests that Dr. Tabeau be called to testify regarding “*inter alia*, the number and causes of alleged deaths in the DK” and proposes that she be heard during the topics on population movements, cooperatives and worksites, security centres and the treatment of Buddhists, Cham and Vietnamese (E305/4.2, pp. 21-22). The Co-Prosecutors submit that Dr. Tabeau’s testimony is relevant to Historical Background, Movement of the Population, the Treatment of the Cham and Treatment of the Vietnamese (E305/6.4, p. 47).

3. On 5 October 2015, when the Chamber was hearing testimony on the Treatment of Vietnamese, the NUON Chea Defence requested that the testimony of Dr. Tabeau be expedited. They submitted that “the Chamber will have to ascertain the number of victims and the impact that the crimes charged are alleged to have had on the Cambodian population as a whole as well as on particular subgroups such as the Cham and Vietnamese” (E371, para 8). They recalled that Dr. Tabeau’s testimony was relevant to the treatment of ethnic and national groups during the DK era (E371, para. 8).

4. On 4 November 2015, the Chamber rejected the request to expedite Dr. Tabeau’s testimony, finding that the NUON Chea Defence did not provide a persuasive reason why Dr. Tabeau’s testimony should be heard immediately rather than during a later trial topic. It also noted that it had not yet decided whether to hear Dr. Tabeau as an expert (E371/1, para. 3).

5. The Chamber notes that the Report is relied on in the Closing Order and requested by the parties – in the context of this trial – primarily to prove excess deaths of Vietnamese and Cham (Closing Order, paras 747, 792-793). It further notes the level of

uncertainty underlying the Report's specific data when it comes to this topic (Report, pages 48-50).

6. The Chamber initiated contact with Dr. Tabeau through the Witness and Expert Support Unit (WESU) to determine whether she would be available to testify should the Chamber decide to call her. Dr. Tabeau pointed out that her report was eight years old and proposed to update the Report based on newly available materials on the subject matter, estimating that this would take several months and entail one or two trips to Cambodia. The Chamber further inquired as to the new materials that have become available concerning the number of excess deaths of Vietnamese and Cham. Dr. Tabeau responded that:

The request from the Chamber is, as I understand it, addressed strictly within the context of proving the excess deaths of Vietnamese and Cham victims of [the] Khmer Rouge regime. Moreover, the Chamber wants to specifically hear whether new statistical information became available for the period between the censuses of 1962 and 1998, which would allow the establishment of the number of excess deaths of Vietnamese and Cham with a higher degree of certainty than in my initial Report.

My answer to the above is that I have not actively searched for such information and therefore I do not know. I am unaware of such new information. I also believe it is very unlikely that any new information has arrived in this particular context.

I indeed indicated in my email that I am aware of some new and additional material that came to my attention since I finalized my 2009 Report. The list of new publications, that were not reviewed in my 2009 report, is attached. The list is not a product of any systematic review of the existing new material; it is a by-product of other activities on the Internet. My list is related to the victimization size and general patterns, some of it discusses the latest methodologies in use, but it is not reporting on the Vietnamese and Cham victim minorities. The 2015 article by Heuveline is also not reporting on the minorities. Thus, all this is irrelevant to the question the Chamber asked.

7. The Chamber attaches the list of publications submitted by Dr. Tabeau.

8. Taking into consideration the need for additional research potentially requiring several months as requested by the expert as a condition for her testimony, the fact that any finding in the report on overall numbers of deaths generally, and on excess deaths of minorities in particular, comes with a significant degree of uncertainty because no data is available to supplement the censuses of 1962 and 1998, the Chamber invites oral submissions from the parties on the following two questions:

- a. Do the NUON Chea Defence and Co-Prosecutors maintain their requests to hear her testimony?
- b. If so, on which specific facts would you propose to hear Dr. Tabeau's testimony. Given the apparent uncertainty surrounding the figures in the report, please clarify how her testimony would be suitable to prove these facts (Internal Rule 87(3)(c)).

9. The Chamber will inform the parties in due course when such oral submissions will be required.