



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

អង្គបុរេជំនុំជម្រះ

Pre-Trial Chamber
Chambre Préliminaire

ឯកសារបញ្ជាក់ថា ច្បាប់ត្រឹមត្រូវតាមច្បាប់ដើម
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..... 14 / 07 / 2010
មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer / L'agent chargé
du dossier: SANN RADA

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

សាលា/No: ០៣៦៥/២/១៦

*In the name of the Cambodian people and the United Nations and pursuant to the Law
on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for
the Prosecution of Crimes Committed During the Period of Democratic Kampuchea.*

Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC 67)

Before:

Judge PRAK Kimsan, President
Judge Rowan DOWNING
Judge NEY Thol
Judge Catherine MARCHI-UHEL
Judge HUOT Vuthy

Date:

14 July 2010

PUBLIC

**DECISION ON RECONSIDERATION OF CO-PROSECUTORS' APPEAL
AGAINST THE CO-INVESTIGATING JUDGES ORDER ON REQUEST TO
PLACE ADDITIONAL EVIDENTIARY MATERIAL ON THE CASE FILE
WHICH ASSISTS IN PROVING THE CHARGED PERSONS' KNOWLEDGE OF
THE CRIMES**

Co-Prosecutors

CHEA Leang
Andrew CAYLEY
YET Chakriya
William SMITH
SENG Bunkheang
Anees AHMED

Charged Person

IENG Sary
NUON Chea
KHIEU Samphan

ឯកសារដើម
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du dossier: SANN RADA



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THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia ("ECCC") is seised of the "Appeal of the Co-Prosecutors in Response to Co-Investigating Judges Order Regarding Request to Place on Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons' Knowledge of the Crimes" ("the Appeal")¹ dated 4 May 2010 by the Co-Prosecutors against the Co-Investigating Judges' "Order on Co-Prosecutors' Request to Place on the Case File Additional Evidentiary Material which Assists in Proving the Charged Persons' Knowledge of the Crimes" ("the First Impugned Order")² dated 5 April 2010. The Co-Investigating Judges issued the First Impugned Order in response to the "Co-Prosecutors' Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons' Knowledge of the Crimes" ("the Request")³ dated 11 February 2010.

The Pre-Trial Chamber is further seised of the oral responses to the Appeal made by the defence teams of the charged persons IENG Sary, KHIEU Samphan and NUON Chea given at the hearing of 26-27 May 2010.⁴ The Pre-Trial Chamber is further seised of the "Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010" ("the Co-Prosecutors' Reconsideration Submission")⁵ dated 28 June 2010 against the Co-Investigating Judges' "Order in Response to the Decision of the Pre-Trial Chamber on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in

¹ Co-Prosecutors' Appeal Brief in Response to the Co-Investigating Judges Order Regarding Request to Place on Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 4 May 2010, D365/2/1 ("the Appeal").

² Order on Co-Prosecutors' Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 5 April 2010, D365/1 ("the First Impugned Order").

³ Co-Prosecutors' Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 11 February 2010, D365 ("the Request").

⁴ Document Nos D-365/2, Hearing Transcript, 26 May 2010, ERN 00531441-00531487 and D-365/2, Hearing Transcript, 27 May 2010, ERN 00531583-00531634.

⁵ Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010, 28 June 2010, D365/2/12 ("the Co-Prosecutors' Reconsideration Submission").

Decision on Reconsideration of Co-Prosecutors' Appeal Against the Co-Investigating Judges Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes



Proving the Charged Persons' Knowledge of the Crimes" ("the Second Impugned Order")⁶ dated 21 June 2010.

The Pre-Trial Chamber is further seised of the following timely filed responses to the Co-Prosecutors' Reconsideration Submission: "Response to Co-Prosecutors' Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010"⁷ dated 2 July 2010 made by the defence of NUON Chea ("the NUON Chea Response") and the "Response of Mr. KHIEU Samphan's Defence to the Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber Decision of 15 June 2010"⁸ dated 7 July 2010 ("the KHIEU Samphan Response").

The Pre-Trial Chamber issued its "Decision on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes" ("the 15 June 2010 Decision") on 15 June 2010.⁹ In the 15 June 2010 Decision, the Pre-Trial Chamber determined that the Appeal is admissible and directed the Co-Investigating Judges to correct certain enumerated deficiencies in the First Impugned Order.¹⁰

The Pre-Trial Chamber has determined the final disposition of the Appeal, which it hereby pronounces. A reasoned decision in respect of the Appeal shall follow in due course.

⁶ Order in Response to the Decision of the Pre-Trial Chamber on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 21 June 2010, D365/3 ("the Second Impugned Order").

⁷ Response to Co-Prosecutors' Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010, 5 July 2010, D365/2/13 ("the NUON Chea Response").

⁸ Response of Mr. KHIEU Samphan's Defence to the Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber Decision of 15 June 2010, 7 July 2010, D365/2/15 ("the KHIEU Samphan Response").

⁹ Decision on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 15 June 2010, D365/2/10 ("the 15 June 2010 Decision").

¹⁰ 15 June 2010 Decision, paras 7, 27.

Decision on Reconsideration of Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes



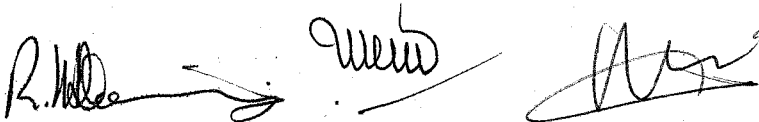
THEREFORE, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:

CONFIRMS the partial denial of the Request in the First Impugned Order and Second Impugned Order; and
DISMISSES the Appeal.

In accordance with Internal Rule 77(13), this decision is not subject to appeal.

Phnom Penh, 14 July 2010 ^{CR}

Pre-Trial Chamber



Rowan DOWNING NEY Thol Catherine MARCHI-UHEL HUOT Vuthy PRAK Kimsan

