



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

D99/3/13

**អង្គបុរេជំនុំជម្រះ**

PRE-TRIAL CHAMBER  
CHAMBRE PRELIMINAIRE

**Criminal Case File N°** 001/18-07-2007-ECCC/OCIJ (PTC 02)

**Before:** Judge PRAK Kimsan, President  
Judge Rowan DOWNING  
Judge NEY Thol  
Judge Katinka LAHUIS  
Judge HUOT Vuthy

**Date:** 25 September 2008

<b>ឯកសារដើម</b>
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PUBLIC

**INVITATION TO AMICUS CURIAE**

**Co-Prosecutors**

CHEA Leang  
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YET Chakriya  
William SMITH  
PICH Sambath  
Alex BATES

<b>ឯកសារចម្លងត្រឹមត្រូវតាមច្បាប់</b>
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**Charged Person**

KAING Guek Eav alias "DUCH"

**Lawyers for the Civil Parties**

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KAR Savuth  
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1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes that on 21 August 2008, the Co-Prosecutors filed a Notice of Appeal against the Closing Order of the Co-Investigating Judges in Case File 001/18-07-2007-ECCC/OCIJ (“Appeal”).
2. In the Co-Prosecutors’ Appeal Brief, filed on 5 September 2008 and subsequently published on the website of the ECCC, it is requested that the Pre-Trial Chamber amend the Closing Order and indict the Charged Person for committing the alleged crimes via participation in a joint criminal enterprise.
3. Rule 33 of the ECCC Internal Rules provides:
  1. At any stage of the proceedings, the Co-Investigating Judges or the Chambers may, if they consider it desirable for the proper adjudication of the case, invite or grant leave to an organization or person to submit a written *amicus curiae* brief concerning any issue. The Co-Investigating Judges and the Chambers concerned shall determine what time limits, if any, shall apply to the filing of such briefs.
  2. Briefs under this Rule shall be filed with the Greffier of the Co-Investigating Judges or the Chamber concerned, who shall provide copies to the Co-Prosecutors and the lawyers for the other parties, who shall be afforded the opportunity to respond.
4. The Pre-Trial Chamber considers it to be desirable for the proper adjudication of the Appeal to invite the Centre for Human Rights and Legal Pluralism (*Centre sur les droits de la personne et le pluralisme juridique*) of McGill University to submit a written *amicus curiae* brief on the following issues:
  - (1) the development of the theory of joint criminal enterprise and the evolution of the definition of this mode of liability, with particular reference to the time period 1975-9;
  - (2) whether joint criminal enterprise as a mode of liability can be applied before the ECCC, taking into account the fact that the crimes were committed in the period 1975-9.
5. The Pre-Trial Chamber notes that guidance on the format of the written brief may be found in the Practice Direction on Filing of Documents before the ECCC, *Practice Direction ECCC/01/2007/Rev.2*, available on the ECCC website.



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**THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:**

**INVITES** the Centre for Human Rights and Legal Pluralism (*Centre sur les droits de la personne et le pluralisme juridique*) of McGill University to submit a written *amicus curiae* brief not exceeding thirty (30) pages in English and/or French on the issue of joint criminal enterprise as described in this invitation by **27 October 2008**. PK

Phnom Penh, 25 September 2008

**President of the Pre-Trial Chamber****PRAK KIMSAN**