



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

D99/3/20

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

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 PEN Pichsaly
Judge Katinka LAHUIS
Judge HUOT Vuthy

Date: 13 October 2008

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 13.10.2008
ម៉ោង (Time/Heure): 15:00
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**PUBLIC
NOTIFICATION OF RECUSAL OF JUDGE NEY THOL**

Co-Prosecutors

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
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Alex BATES

ឯកសារចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
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មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. Fry

Charged Person

KAING Guek Eav alias "DUCH"

Lawyers for the Civil Parties

KONG Pisey
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Co-Lawyers for the Defence

KAR Savuth
François ROUX



1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes that it has received a letter from Judge Ney Thol, dated 9 October 2008 and addressed to the President of the Pre-Trial Chamber, concerning “Request for the Recusal in the Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav alias ‘Duch’ (Criminal Case No. 001/18-07-2007-ECCC-OCIJ(PTC02)” (“Letter”).
2. In the Letter, Judge Ney Thol informs the President that he has decided to recuse himself from participation in the “Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav ‘Duch’ dated 8 August 2008” filed on 5 September 2008 (“Appeal”).
3. Rule 34(1) of the Internal Rules provides that:

A judge may recuse him/herself in any case in which he or she has, or has had, a personal or financial interest, or concerning which the Judge has, or has had, an association which objectively might affect his or her impartiality, or objectively give rise to the appearance of bias. A Co-Investigating Judge who recuses him or herself shall notify the President of the Pre-Trial Chamber. In any other case the judge in question shall notify the Chamber in which he or she is sitting. The Judge in question shall immediately cease to participate in the judicial proceedings.

4. The Pre-Trial Chamber notes further Chapter IV of the Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea of 27 October 2004.
5. As a consequence of Judge Ney Thol’s recusal, he has immediately been replaced by Reserve Judge Pen Pichsaly for the duration of the proceedings in the Appeal.
6. The Pre-Trial Chamber in its new composition affirms all procedural action taken in relation to the Appeal prior to Judge Ney Thol’s recusal.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY NOTIFIES

The Parties and the public that Judge **Ney Thol** has been replaced by Reserve Judge **Pen Pichsaly** for the duration of the proceedings in the Appeal. *mt*

Phnom Penh, 13 October 2008

President of the Pre-Trial Chamber



PRAK KIMSAN



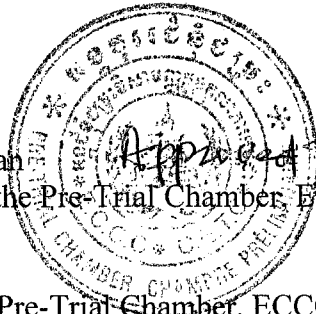
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PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE



To: PRAK Kimsan *Approved* Date: 9 October 2008
President of the Pre-Trial Chamber, ECCC

From: NEY Thol *NT*
Judge of the Pre-Trial Chamber, ECCC

Subject: Request for the Recusal in the Co-Prosecutors' Appeal of the Closing Order against Kaing Guek Eav alias "Duch" (Criminal Case No. 001/18-07-2007-ECCC-OCIJ (PTC 02))

Attachment: Letter dated 6 November 2007

With reference to the above-mentioned subject and attachment, I would like to inform the President that I have decided to recuse myself in this case.

I, therefore, sincerely hope that you grant the request.

Please, the President, accept the highest consideration. *NT*