



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

A162/III/5

អង្គបុរេជំនុំជម្រះ

PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE

Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC08)

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

Date: 4 August 2008

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DECISION ON THE REQUEST TO DETERMINE IENG SARY'S APPEAL ON THE BASIS OF WRITTEN SUBMISSIONS ONLY

Co-Prosecutors

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
TAN Senarong
Anees AHMED

ឯកសារបានតម្កល់ត្រឹមត្រូវតាមច្បាប់
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Charged Person

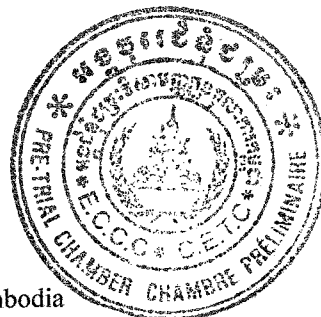
IENG Sary

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1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the Appeal of Mr. Ieng Sary (“the Charged Person”) against the OCIJ’s decision on the Defence Request for information concerning the apparent bias & potential existence of conflict of interest of OCIJ Legal Officer David Boyle (“the Appeal”) of 5 June 2008.
2. Pursuant to Internal Rule 77(3), the Pre-Trial Chamber shall, after having received an appeal or application, set a hearing date.¹
3. The Pre-Trial Chamber, however, observes that in their Response to Ieng Sary’s Submission on Conflict of Interest of an OCIJ Investigator of 23 June 2008, the Co-Prosecutors submitted that this Appeal “is an appropriate case to be determined on written pleadings only, without recourse to an oral hearing”.²
4. On 27 June 2008, the Co-Lawyers informed the Pre-Trial Chamber that they agreed with this position and requested the Pre-Trial Chamber to decide in this way.³
5. The Pre-Trial Chamber finds, after considering the views of the Parties expressed in their pleadings, that the Appeal may be determined on the basis of the written submissions of the Parties only.
6. In accordance with Article 8.4 of the Practice Direction on the Filing of Documents before the ECCC, a reply to a response is permissible where there is to be no oral argument on a request.⁴ The Pre-Trial Chamber will, therefore, in its determination of the Appeal, take the Charged Person’s Reply to the Response, filed on 30 June 2008, into consideration.⁵

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY DECIDES:

To determine the Appeal on the basis of the written submissions of the Parties only. ny

Phnom Penh, 4 August 2008

President of the Pre-Trial Chamber



¹ Internal Rules of the Extraordinary Chambers in the Courts of Cambodia (Rev. 1), 1 February 2008.

² Co-Prosecutors’ Response to Ieng Sary’s Submission on Conflict of Interest of an OCIJ Investigator, 23 June 2008, A162/III/2, para. 4.

³ Request for the Pre-Trial Chamber to Decide upon the Appeal of Ieng Sary against the OCIJ’s Decision on the Defence Request for Information Concerning the Apparent Bias & Potential Existence of Conflict of Interest of OCIJ Legal Officer David Boyle solely on the Basis of Written Pleadings & Request for an Extension of Time, 27 June 2008, A162/III/3, para. 1.

⁴ Practice Direction ECCC/01/2007/Rev. 2.

⁵ Ieng Sary’s Reply to the Co-Prosecutors’ Response to Appeal of Mr. Ieng Sary against the OCIJ’s Decision on the Defence Request for Information Concerning the Apparent Bias & Potential Existence of Conflict of Interest of OCIJ Legal Officer David Boyle, 30 June 2008, A162/III/4.