



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber
Chambre de première instance

សំណុំរឿងលេខ: ០០១/១៨ កក្កដា ២០០៧/អវតក/អជសដ

Case File/Dossier No. 001/18-07-2007/ECCC/TC

ឯកសារដើម	
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SANN RADA	

Before: Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge THOU Mony

Date: 26 February 2009

Classification: PUBLIC

ឯកសារបានត្រឹមត្រូវតាមច្បាប់ដើម	
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SANN RADA	

DECISION OF THE TRIAL CHAMBER CONCERNING PROOF OF IDENTITY FOR CIVIL PARTY APPLICANTS

Co-Prosecutors

CHEA Leang
Robert PETIT

Accused

KAING Guek Eav alias "DUCH"

Lawyers for the Civil Parties

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Lawyers for the Defence

KAR Savuth
François ROUX



E2/39

THE TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia;

BEING SEISED of Case File No. 001/18-07-2007-ECCC/TC pursuant to the “Decision on Appeal Against the Closing Order Indicting Kaing Guek Eav Alias Duch,” rendered orally by the Pre-Trial Chamber on 5 December 2008 and filed in Khmer on 9 December 2008;

HAVING RECEIVED the applications to be joined as Civil Parties filed by Civil Party applicants E2/36, E2/51, E2/69, E2/74 and E2/87 (“the Applicants”);¹

HAVING CONSIDERED the submissions made orally by the Parties during the Initial Hearing;

HEREBY ISSUES THE FOLLOWING DECISION

A BACKGROUND

1. When they filed their applications, none of the applicants provided proof of identity as provided in Article 3.5 (a) of the Practice Direction 02/2007 on Victim participation. That provision states:

3.5 All Civil Party applications shall contain the following information:

(a) details allowing verification of the of the applicant’s status as a victim;

2. Since the Applicants filed their applications, the Chamber invited them to correct the defect. Copies of the identity card for Civil Party Applicant E2/74, and of Applicant E2/87’s passport were then filed.²

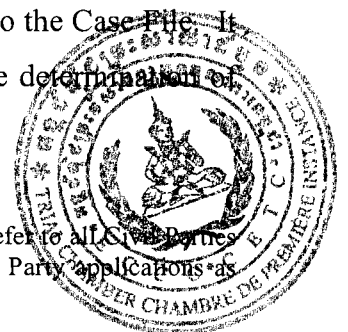
3. Applicant E2/69 provided an election card number and during the Initial hearing the lawyer for this party undertook to file a copy of the card as soon as possible.

4. Applicants E2/36 and E2/51 filed letters from the non-governmental organisations assisting them in the preparation and filing of their applications confirming their identities.

5. In addition, Applicants E2/36 and E2/51 were granted interim recognition by letter from the greffiers of the Chamber. This gave the right to those Applicants to have access to the Case File. It conferred no further rights, and in particular, gave no indication concerning the determination of their ultimate status as Civil Parties.

¹ As already indicated during the Initial Hearing, as an interim measure, the Trial Chamber will refer to all Civil Parties or Civil Party applicants by referring to the document reference number of their original Civil Party applications as placed in the case file.

² See Documents E2/93.1 and E2/93.2, respectively.



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B FINDINGS

6. The Chamber considers that in order to be admissible a Civil Party Applicant must satisfy it that his or her identity is not in issue. If the Chamber is to permit an Applicant to participate in criminal proceedings and to seek collective and moral reparations as provided in Rule 23.2, the identity of that person must be unequivocal.

7. It is unable to accept as adequate proof of identity, an election card number without a copy of the card itself. In addition, third parties such as non-governmental organisations who appear to have no prior knowledge of the Applicant, are unqualified to confirm the identity of an Applicant whom they have assisted in making the application for Civil Party status. The Chamber will always require information concerning the basis on which the organisation can assert that it is confident of the person's identity.

8. The Chamber is aware of the difficulties for some in proving identity. It will determine applications where proving identity is problematic, on a case-by-case basis. It cannot however, derogate from the fundamental principle stated above.

FOR THE FOREGOING REASONS

The Chamber **DECIDES** that Applicants E2/74 and E2/87 are admitted as Civil Parties in the case against the Accused; and

ORDERS that Applicants E2/36, E2/51 and E2/69 will be given a further and final opportunity to file additional proof of their identities. The deadline for filing this material is 2.00pm on Tuesday, 3 March 2009. *[Handwritten signature]*

Phnom Penh, 26 February 2009

President of the Trial Chamber

