



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the
Courts of Cambodia

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
Bureau des Co-juges d'instruction

សំណុំរឿងព្រហ្មទណ្ឌ
Criminal Case File /Dossier pénal
លេខ/No: 002/14-08-2006

លេខស៊ើបអង្កេត/Investigation/Instruction
លេខ/No: 001/18-07-2007

ដីកាបញ្ជូនសំណុំរឿងទៅពិនិត្យដើម្បីបំបែក
សំណុំរឿង

Forwarding Order for the purpose of
separation

We, You Bunleng ឬ ប៊ុនឡេង and Marcel Lemonde, Co-Investigating Judges of the
Extraordinary Chambers in the Courts of Cambodia,

Noting the Law on the Establishment of the Extraordinary Chambers, dated 27 October
2004,

Noting the judicial investigation opened against Kaing Guek Eav កាំង ហ្គេកអ៊ាវ alias
Duch ឌុច,

Noting Rule 21(4) of the Internal Rules of the Extraordinary Chambers,

Procedural History and Reasoning

By Written Record of Initial Appearance, dated 31 July 2007, we expressly informed the
Charged Person of each of the acts with which we have been seised by the Co-
Prosecutors of the Extraordinary Chambers in the Introductory Submission dated 18 July
2007. DUCH also received a copy of the Introductory Submission on 2 August 2007. In

their Introductory Submission, the Co-Prosecutors presented a number of acts which are open to legal characterisation as:

- Violations of the 1956 Penal Code (Homicide, Torture and Religious Persecution of Buddhists and Cham);
- Genocide (of Buddhists, Cham and Vietnamese);
- Crimes Against Humanity (Murder, Extermination, Enslavement, Deportation, Imprisonment, Torture, Rape, Persecutions on political, racial and religious grounds of former officials of the Khmer Republic, feudalists, capitalists and bourgeoisie, "new people", suspected "bad elements", Buddhists, Cham and Vietnamese, and Other Inhumane Acts);
- Grave Breaches of the Geneva Conventions of 12 August 1949 (Wilful Killing; Torture or Inhumane Treatment; Wilfully Causing Great Suffering or Serious Injury to Body or Health; Destruction and Serious Damage to Property not justified by military necessity and carried out unlawfully and wantonly; Wilfully Depriving a Prisoner of War or Civilian the Rights of Fair and Regular Trial; and Unlawful Deportation or Transfer or Unlawful Confinement of a Civilian).

Some of these acts were committed outside the S-21 Center, and others were committed within the framework of S-21 operations.

The former require further detailed investigations which cannot be separated from those relating to other persons named in the Introductory Submission.

On the contrary, the acts with which charged DUCH is charged in relation to S-21 form a clearly designated and relatively less complicated set. Furthermore, this set of acts has not been disputed by the Charged Person. The judicial investigation relating to these acts should, thus, be completed in the coming months, without awaiting the results of the additional investigations mentioned above.

An expedited resolution of the DUCH case is essential, especially since he has already been under provisional detention in a separate procedural framework for more than eight years, as noted in the Provisional Detention Order dated 31 July 2007. Furthermore, opening a public trial as soon as possible is indispensable for the credibility of the Court as such, in view of the long time period since the acts in question occurred.

Considering, for all the abovementioned reasons: that in the interests of good administration of justice, it is necessary to envisage the separation of the DUCH case as regards acts perpetrated at S-21; that for the sake of simplicity, such separation must clearly be arranged prior to charging any other suspects; and that an urgent decision is needed due to the imminence of further charges.

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា មានទីតាំងស្ថិតនៅ ផ្លូវជាតិលេខ៤ សង្កាត់ ចោមចៅ ខណ្ឌ ដង្កោ ក្រុង ភ្នំពេញ ប្រអប់សំបុត្រលេខ៧១ 2

ទូរស័ព្ទលេខ +៨៥៥(០)២៣ ២១៨៩១៤ ទូរសារលេខ +៨៥៥(០)២៣ ២១៨៩៤១។

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Therefore Decide

To forward the case file of the judicial investigation to the Co-prosecutors of the Extraordinary Chambers for their opinion on separation of the DUCH case, as the Chairman of S-21.

Request the Co-Prosecutors to provide any observations they may have to us on 19 September 2007 at the latest.

Done in Phnom Penh on 18 September 2007

Co-Investigating Judges

[Signatures]