



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

DS4/E/4

**អង្គបុរេជំនុំជម្រះ**

PRE-TRIAL CHAMBER  
CHAMBRE PRELIMINAIRE

**Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC07)**

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

**Date:** 7 August 2008

<b>ឯកសារដើម</b>
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**DECISION ON THE REQUEST TO DETERMINE NUON CHEA'S APPEAL ON APPOINTMENT OF EXPERT ON THE BASIS OF WRITTEN SUBMISSIONS ONLY**

**Co-Prosecutors**

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

**Charged Person**

NUON Chea

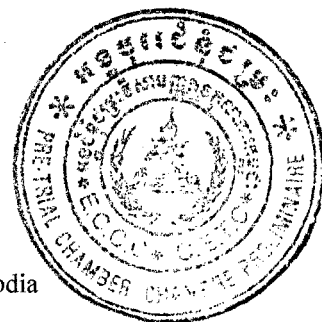
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Michiel PESTMAN  
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<b>ឯកសារត្រឹមត្រូវតាមច្បាប់</b>
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1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the “Appeal Against Order Rejecting Application to Appoint Expert” filed by NUON Chea on 17 April 2008 (“the Appeal”).
2. Pursuant to Internal Rule 77(3), the Pre-Trial Chamber shall, after having received an appeal or application, set a hearing date.<sup>1</sup>
3. However, the Pre-Trial Chamber notes that in their “Response to NUON Chea’s Appeal Regarding Appointment of an Expert to Assess his Fitness to Stand Trial”, the Co-Prosecutors submitted that this Appeal “is an appropriate case to be determined on written pleadings only, without recourse to an oral hearing”.<sup>2</sup>
4. On 30 July 2008, the Co-Lawyers informally advised the Pre-Trial Chamber that they agreed with this position.
5. The Pre-Trial Chamber considers that the issues raised by the Appeal are suitable for a determination on the basis of written pleadings.
6. The Pre-Trial Chamber finds, after having considered the views of the Co-Prosecutors and the Co-Lawyers for the Charged Person (the “Parties”), that the Appeal shall be determined on the basis of the written submissions of the Parties only.
7. 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.<sup>3</sup>

**THEREFORE, THE PRE-TRIAL CHAMBER HEREBY DECIDES AND DIRECTS:**

- (1) The Appeal will be decided on the basis of the written submissions of the Parties only;
- (2) The Charged Person is allowed to file a reply to the Co-Prosecutors’ Response within five (5) days of the notification of this Decision. off

Phnom Penh, 7 August 2008

**President of the Pre-Trial Chamber**



**PRAK KIMSAN**

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

<sup>2</sup> Co-Prosecutors’ Response to Nuon Chea’s Appeal Regarding Appointment of an Expert to Assess his Fitness to Stand Trial, 17 June 2008, D54/V/2, para. 4.

<sup>3</sup> Practice Direction ECCC/01/2007/Rev. 2.