



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

D99/3/21

**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

<b>ឯកសារដើម</b>
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ..... 13 / 10 / 2008 .....
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PUBLIC

**DECISION TO DETERMINE THE CO-PROSECUTORS' APPEAL OF THE CLOSING ORDER ON THE BASIS OF WRITTEN SUBMISSIONS ONLY**

**Co-Prosecutors**

CHEA Leang  
Robert PETIT  
YET Chakriya  
William SMITH  
PICH Sambath  
Alex BATES

<b>ឯកសារបានតម្កល់ច្រើនតាមច្បាប់ដើម</b>
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ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification): ..... 13 / 10 / 2008 .....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: C.A. Fay

**Charged Person**

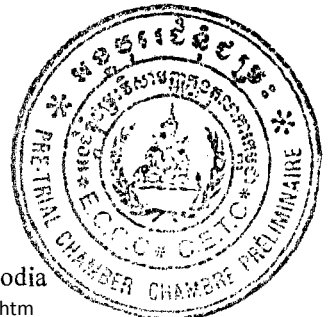
KAING Guek Eav alias "DUCH"

**Lawyers for the Civil Parties**

KONG Pisey  
HONG Kimsuon  
YOUNG Panith  
KIM Mengkhy  
MOCH Sovannary  
Silke STUDZINSKY  
Martine JACQUIN  
Philippe CANNONE

**Co-Lawyers for the Defence**

KAR Savuth  
François ROUX



D99/3/21

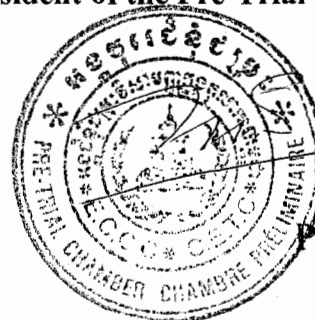
1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the “Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav “Duch” dated 8 August 2008”, filed on 5 September 2008 (“Appeal”).
2. Internal Rule 77(3) provides, in relevant part:
  - (a) The President of the Chamber shall verify that the case file is up to date and set a hearing date
  - (b) The Pre-Trial Chamber may, after considering the views of the parties, decide to determine an appeal or application on the basis of written submissions of the parties only.
3. The Pre-Trial Chamber observes that in their Appeal, the Co-Prosecutors submit that “[a]n oral hearing of this appeal is not necessary. The Co-Prosecutors submit that the parties can sufficiently brief the Pre-Trial Chamber on the relevant factual and legal issues through their written pleadings [...]. The Co-Prosecutors also recognise the need for an expeditious resolution of all outstanding issues to enable the public trial to commence as soon as possible”.<sup>1</sup>
4. On 16 September 2008, in their Response to the Appeal (“Co-Lawyers’ Response”), the Co-Lawyers request the Pre-Trial Chamber to dismiss the appeal, without a hearing.<sup>2</sup>
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. The Pre-Trial Chamber notes it has been informed by the Co-Prosecutors, that the Co-Prosecutors do not intend to file a Reply to the Co-Lawyers’ Response, permitted on the basis of Article 8.4 of the Practice Direction on the Filing of Documents before the ECCC.<sup>3</sup>

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

The Appeal will be decided on the basis of the written submissions of the Parties only. ទី

**Phnom Penh, 13 October 2008**

**President of the Pre-Trial Chamber**



**PRAK KIMSAN**

<sup>1</sup> Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav “Duch” dated 8 August 2008, 5 September 2008, D99/3/3, para. 9.

<sup>2</sup> Defence Lawyers’ Response to the Co-Prosecutors’ Appeal of the Closing Order dated 8 August 2008, 16 September 2008, D99/3/8, para. 17.

<sup>3</sup> Co-Prosecutors’ Observations on the Defence Response to the Appeal of the Closing Order, 17 September 2008, D99/3/9, para. 3.