



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: 14 October 2008

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PUBLIC

DECISION ON IENG SARY'S MOTION TO DISQUALIFY *AMICUS CURIAE*

Co-Prosecutors

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

ឯកសារបានមកម្តងទៀតតាមច្បាប់ដើម	
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Charged Person

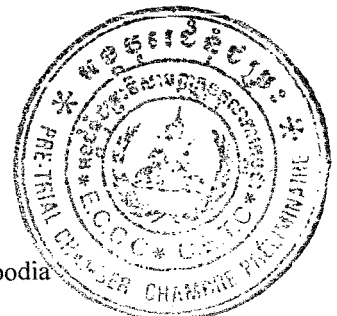
KAING Guek Eav alias "DUCH"

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1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) has received a motion by the Co-Lawyers for Ieng Sary “to disqualify Professor Antonio Cassese and selected members of the Board of Editors and Editorial Committee of the Journal of International Criminal Justice from submitting a written *amicus curiae* brief on the issue of joint criminal enterprise in the Co-Prosecutor’s appeal of the Closing Order against Kaing Guek Eav ‘Duch’” filed on 6 October 2008 (“Motion”).
2. The Co-Prosecutors filed a response to the Motion on 13 October 2008.
3. The Pre-Trial Chamber notes that Ieng Sary is not a party in the Case File 001/18-7-2007-ECCC-OCIJ which concerns the Charged Person “Duch” alone.¹
4. In their Motion, which is brought pursuant to Internal Rules 33 (*Amicus curiae* Briefs) and 34 (Recusal and Disqualification of Judges), the Co-Lawyers for Ieng Sary appear to assume a right to participate directly in another case.
5. The Pre-Trial Chamber notes that in its “Decision on Ieng Sary’s Request to make submissions on the application of the theory of joint criminal enterprise in the Co-Prosecutors’ Appeal of the Closing Order against Kaing Guek Eav ‘Duch’” of 6 October 2008, it found that the Charged Person Ieng Sary did not have the right to intervene in the case against the Charged Person Duch on the issue of the application of the theory of joint criminal enterprise.
6. The Pre-Trial Chamber finds that the Charged Person Ieng Sary lacks standing to bring the current Motion.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:

Decides that the Motion is inadmissible. PK

Phnom Penh, 14 October 2008

President of the Pre-Trial Chamber



PRAK KIMSAN

¹ Separation Order, 19 September 2007, D18.