



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គបុរេជំនុំជម្រះ
Pre-Trial Chamber
Chambre Préliminaire

Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC~~19, 20, 21~~ and 22)

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

Date: 4 August 2009

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 04 / AUG / 2009
ម៉ោង (Time/Heure):..... 14 : 10
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA

PUBLIC

DECISION ON REQUEST FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Co-Prosecutors

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

Lawyers for the Civil Parties

HONG Kim Suon
LOR Chunthy
NY Chandy
KONG Pisey
YONG Phanith
KIM Mengkhy
MOCH Sovannary
Silke STUDZINSKY
Martine JACQUIN
Philippe CANNONE
Pierre Olivier SUR
Elizabeth RABESANRATANA
Olivier BAHOUGNE
David BLACKMAN
Annie DELAHAIE

Charged Person

Ieng Thirith
Ieng Sary
Nuon Chea
Khiev Samphan

Co-Lawyers for the Charged Person

PHAT PouV Seang
Diana ELLIS
ANG Udom
Michael G. KARNAVAS
SON Arun
Michiel PESTMAN
SA Sovan
Jacques VERGES

The Unrepresented Civil Parties

ឯកសារច្បាប់តម្រូវឱ្យបញ្ជាក់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ បញ្ជាក់ (Certified Date/Date de certification): 04 / 08 / 2009
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA



002/19-09-2007-ECCC/OCIJ (PTC19, 20, 21 and 22)
~~PTC19: D158/5/4/13~~
~~PTC20: D158/5/3/14~~
 PTC21: D158/5/1/14
~~PTC22: D158/5/2/14~~

1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) has received a letter dated 27 July 2009 (attached) from Elizabeth Nielsen, a 2009 Legal Associate at the Documentation Center of Cambodia, requesting leave to file an *amicus curiae* brief regarding the “fair trial implications of corruption allegations at the ECCC”.

2. Rule 33(1) of the Internal Rules provides:

“At any stage of the proceedings, the Co-Investigating Judges or the Chambers may, if they consider it desirable for the proper adjudication of the case, invite or grant leave to an organization or person to submit a written *amicus curiae* brief concerning any issue. The Co-Investigating Judges and the Chambers concerned shall determine what time limits, if any, shall apply to the filing of such briefs.”

3. The Pre-Trial Chamber finds that through the submissions of the Parties to the Appeal, the Chamber is sufficiently informed in order to decide on the Appeal. The Pre-Trial Chamber further finds that it would be undesirable to risk delaying the proceedings by receiving an *amicus curiae* brief and responses thereto by the Parties.

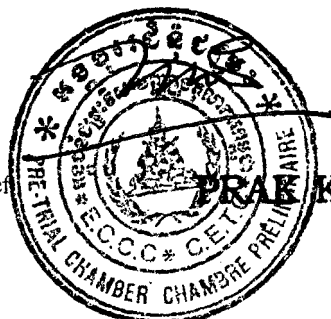
4. The Pre-Trial Chamber appreciates the interest shown by Elizabeth Nielsen in the current proceedings, but does not consider it desirable to grant leave to file an *amicus curiae* brief in this case.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:

Denies the request for leave to file *amicus curiae* brief.

Phnom Penh, 4 August 2009

President of the Pre-Trial Chamber



002/19-09-2007-ECCC/OCIJ (PTC19, 20, 21 and 22)
~~PTC19: D158/5/4/13~~
~~PTC20: D158/5/3/14~~
PTC21: D158/5/1/14
~~PTC22: D158/5/2/14~~

Pre-Trial Chamber
Extraordinary Chambers in the Courts of Cambodia
National Road 4, Chaom Chau Commune
Dangkao District
Phnom Penh

July 27, 2009

To: the attention of the President of the Pre-Trial Chamber:

I am Elizabeth Nielsen, a 2009 Legal Associate at the Documentation Center of Cambodia (DCCam). DC-Cam has been actively monitoring the proceedings of the ECCC since the Court's inception. As a former Legal Associate and a legal practitioner in general, I have a strong interest in ensuring that the ECCC adheres to the tenets of international law. Only by doing so will the ECCC fulfill its mission of providing justice for the crimes committed during the period of Democratic Kampuchea in Cambodia.

I write to request that the Chamber grant me leave, pursuant to Internal Rule 33, to submit a written *amicus curiae* brief regarding the fair trial implications of corruption allegations at the ECCC. Allegations of corruption at the ECCC are an issue of serious concern, as demonstrated by the continued litigation over the Nuon Chea Defense Team's request, joined by counsel for Ieng Sary, Ieng Thirith, and Khieu Samphan and supported by the Co-Lawyers for Civil Parties, to investigate corruption allegations and release the results of the UN-OIOS report on corruption. A determination of the relevant fair trial implications is highly important to the entirety of the Court's proceedings and should therefore be made only after considering all applicable submissions and sources of legal analysis.

The Court could benefit from accepting *amici curiae* briefs from neutral parties unaffiliated with any of its offices. These briefs offer the Court a thorough and complete picture of the jurisprudence relating to critical issues of law likely to be raised before the ECCC. Therefore, such briefs could be a useful supplement to the Court's own investigation when deciding on critical and complex legal questions, such as the fair trial implications of corruption allegations.

For these reasons, I respectfully request that the Trial Chamber accept the attached *amicus curiae* brief regarding the issue of fair trial implications of corruption allegations at the ECCC. Thank you very much. I look forward to hearing from you.

Sincerely,

ELIZABETH NIELSEN
elizabeth.nielsen@yale.edu
Juris Doctor, Yale Law School
2009 Legal Associate, Documentation Center of Cambodia

Decision on Request for Leave to File *Amicus Curiae* Brief

