



**ព្រះរាជាណាចក្រកម្ពុជា**  
**ជាតិ សាសនា ព្រះមហាក្សត្រ**

**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

**អង្គជំនុំជម្រះសាលាដំបូង**

Trial Chamber  
Chambre de première instance

សំណុំរឿងលេខ: ០០១/១៨ កក្កដា ២០០៧/អវតក/អជសដ

Case File/Dossier No. 001/18-07-2007/ECCC/TC

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| <b>ឯកសារដើម</b>  |
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| du dossier: SANN RADA                                      |

**Before:**

**Judge NIL Nonn, President**  
**Judge Silvia CARTWRIGHT**  
**Judge YA Sokhan**  
**Judge Jean-Marc LAVERGNE**  
**Judge THOU Mony**

**Date:**

**10 August 2009**

**Classification:**

**PUBLIC**

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| <b>ឯកសារបានចម្លងត្រឹមត្រូវតាមច្បាប់ដើម</b>                         |
| CERTIFIED COPY/COPIE CERTIFIÉE CONFORME                            |
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| du dossier: SANN RADA  |

**DECISION ON REQUEST TO RECONSIDER DECISION ON PROOF OF IDENTITY FOR CIVIL PARTY APPLICATION (E2/36)**

**Co-Prosecutors**

CHEA Leang  
Robert PETIT

**Accused**

KAING Guek Eav alias "DUCH"

**Lawyers for the Civil Parties**

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E2/94/4

## I. INTRODUCTION

1. The Civil Party Co-Lawyers for Group 3 request reconsideration of the Chamber's Decision of 4 March 2009, in which it declared the Civil Party application of E2/36 to be inadmissible.<sup>1</sup> On 26 February 2009, Civil Party Applicants E2/36, E2/51 and E2/69 were ordered by the Chamber to file additional proof of their identities by 3 March 2009.<sup>2</sup>

2. In its Decision of 4 March 2009, the Trial Chamber found that the document provided by Applicant E2/36 was insufficient to establish his identity, and no additional identifying information had been filed before the Chamber within the prescribed deadline.<sup>3</sup> Reconsideration is sought as Civil Party Group 3 submit that they are now in a position to provide sufficient proof of identity for Civil Party Applicant E2/36. A copy of this identifying document was/ provided to the Chamber with the request for reconsideration.<sup>4</sup> The Co-Lawyers for Civil Party Group 3 cite difficulties in locating and contacting the Applicant as the reason for failure to comply with the deadlines contained in the Rules and those imposed by the Chamber.<sup>5</sup>

## II. FINDINGS

3. Rule 23(4) of the Internal Rules provides that Civil Party applications must be filed no later than 10 days before the Initial Hearing. To be admissible, Civil Party applications must also contain sufficient proof of identity. Civil Party application E2/36 was lodged by Civil Party Group 3 on 20 January 2009. The Initial Hearing took place on 17 February 2009, having been scheduled on 19 January 2009.<sup>6</sup> On an exceptional basis, the Trial Chamber afforded additional time to Civil Parties to comply with this requirement regarding proof of identity on 26 February 2009.<sup>7</sup>

4. The Chamber notes that at the time of its decision declaring Civil Party application E2/36 inadmissible, the deadline for filing proof of identity had expired. Sufficient time had been accorded to the Co-Lawyers for Civil Party Group 3 in order to obtain this information. No leave was sought by them before the Chamber to further extend this deadline. Admission as a Civil Party is a trigger, under the Rules, for a variety of other procedural steps before the ECCC, all of which

<sup>1</sup> "Request to Reconsider Decision on Proof of Identity for Civil Party Application (E2/36)," 13 March 2009 (Document E2/94/3) ("Request").

<sup>2</sup> "Decision of the Trial Chamber concerning Proof of Identity for Civil Party Applicants", 26 February 2009 (Document E2/94). *See also* "Civil Party Application of [E2/36]", 20 January 2009 (Document E2/36).

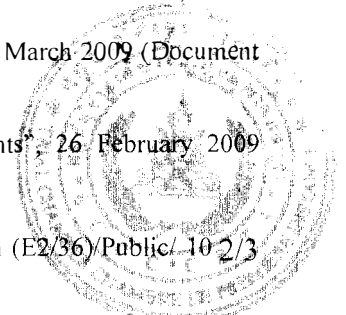
<sup>3</sup> "Decision on the Civil Party Status of Applicants E2/36, E2/51 and E2/69", 4 March 2009 (Document. E2/94/2).

<sup>4</sup> Annex 1: Identity Card of [E2/36] (Document E2/94/3.1)

<sup>5</sup> "Request to Reconsider Decision on Proof of Identity for Civil Party Application (E2/36), 13 March 2009 (Document E2/94/3).

<sup>6</sup> Order Setting the Date of the Initial Hearing, 19 January 2009 (Document E8).

<sup>7</sup> "Decision of the Trial Chamber concerning Proof of Identity for Civil Party Applicants", 26 February 2009 (Document E2/94).



may impact on the expeditiousness of the trial. The Chamber has a duty to direct the course of the proceedings in accordance with its fundamental duty to ensure a fair and expeditious trial.

5. Finally, the Chamber notes that the legal framework of the ECCC does not expressly provide for reconsideration as a remedy for denial of Civil Party applications. Internal Rules 23 (4), 104(4)(d) and 107 instead envisage appeal, within a prescribed 30-day time limit, of a decision declaring a Civil Party application inadmissible. The Applicant did not exercise this right within the prescribed deadline. The request for reconsideration is denied.

**FOR THE FOREGOING REASONS, THE TRIAL CHAMBER**

**DENIES** the Request. *SA*

Phnom Penh, 10 August 2009  
President of the Trial Chamber



**Nil Nonn**