



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

D/197/5/3
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 3)

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

Date: 27 January 2010

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):
..... 27, 01, 2010

ម៉ោង (Time/Heure) : 14.00

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ឯកសារបានថតចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
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ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវច្បាប់ (Certified Date /Date de certification):
..... 27, 01, 2010

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PUBLIC

DECISION TO DETERMINE THE APPEAL ON WRITTEN SUBMISSIONS AND DIRECTION FOR A REPLY

Co-Prosecutors

CHEA Leang
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YET Chakriya
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SENG Bunkheang
Vincent de WILDE d'ESTMAEL

Charged Person

KHIEU Samphan

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CHET Vanly
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Unrepresented Civil Parties



THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the “Appeal against the Order on the Request for Annulment for Abuse of Process” filed by the Co-Lawyers for the Charged Person on 27 November 2009 (the “Appeal”).¹

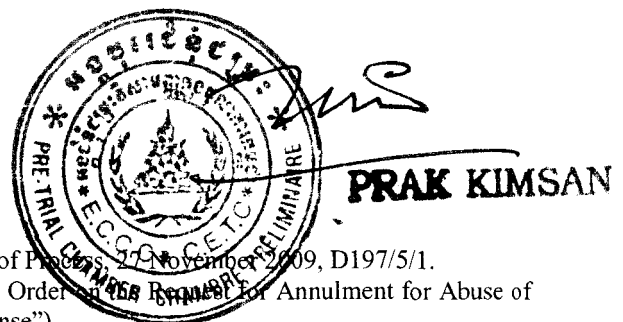
2. The Co-Prosecutors filed their Response to the Appeal on 11 December 2009 (the “Co-Prosecutors’ Response”).²
3. The Pre-Trial Chamber observes that in the Appeal the Co-Lawyers for the Charged Person do not request a hearing and that the Co-Prosecutors in their Response ask that the Appeal be determined on written pleadings alone.
4. The Pre-Trial Chamber finds that it is not necessary to hold a hearing in this procedure as it has no questions which need to be addressed. The Pre-Trial Chamber further notes that in a previous decision it has reasoned in general terms on the right to a hearing.³ The Appeal will therefore be determined on the basis of written submissions
5. In accordance with Article 8(4) of the Practice Direction on Filing Documents before the ECCC, a reply to a response is permissible where there is to be no oral argument on a request.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:

1. **DECIDES** to determine the appeal on the basis of the written submissions;
2. **DIRECTS** the Co-Lawyers for the Charged Person to file their written Reply, if any, to the Response within 5 calendar days of notification of this decision.

Phnom Penh, 27 January 2010 *PK*

President, Pre-Trial Chamber



¹ Appeal against the Order on the Request for Annulment for Abuse of Process, 27 November 2009, D197/5/1.

² Co-Prosecutors’ Response to Khieu Samphan’s Appeal against the Order on the Request for Annulment for Abuse of Process, 11 December 2009, D197/5/2, (the “Co-Prosecutors’ Response”).

³ See Decision on Request to Reconsider the Decision on Request for an Oral Hearing on the Appeals PTC24 and 25, 20 October 2009, D164/4/9, paras. 15 – 24.