



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

**អង្គបុរេជំនុំជម្រះ**  
Pre-Trial Chamber  
Chambre Préliminaire

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

លេខ/No: ០៣៦៥/២/១៦

**ឯកសារបានផ្តល់ច្រើនតាមច្បាប់ដើម**  
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME  
ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification):  
..... 14 ..... 07 ..... 2010 .....  
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé  
du dossier:..... J.A.N.N. RADA.....

*In the name of the Cambodian people and the United Nations and pursuant to the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea.*

**Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC 67)**

**Before:** Judge PRAK Kimsan, President  
Judge Rowan DOWNING  
Judge NEY Thol  
Judge Catherine MARCHI-UHEL  
Judge HUOT Vuthy

**Date:** 14 July 2010

**PUBLIC**

**DECISION ON RECONSIDERATION OF CO-PROSECUTORS' APPEAL AGAINST THE CO-INVESTIGATING JUDGES ORDER ON REQUEST TO PLACE ADDITIONAL EVIDENTIARY MATERIAL ON THE CASE FILE WHICH ASSISTS IN PROVING THE CHARGED PERSONS' KNOWLEDGE OF THE CRIMES**

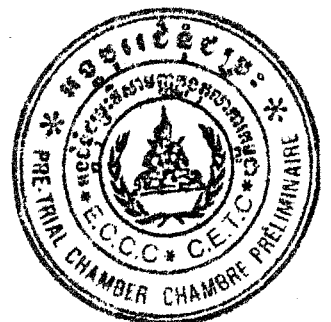
**Co-Prosecutors**

CHEA Leang  
Andrew CAYLEY  
YET Chakriya  
William SMITH  
SENG Bunkheang  
Anees AHMED

**Charged Person**

IENG Sary  
NUON Chea  
KHIEU Samphan

**ឯកសារដើម**  
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL  
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):  
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du dossier:..... J.A.N.N. RADA.....



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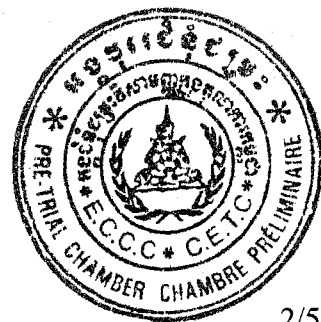
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 Madhev MOHAN  
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 MOCH Sovannary  
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 Annie DELAHAIE  
 Philippe CANONNE  
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**Co-Investigating Judges**

YOU Bunleng  
 Marcel LEMONDE



2/5

Decision on Reconsideration of Co-Prosecutors' Appeal Against the Co-Investigating Judges  
 Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in  
 Proving the Charged Persons' Knowledge of the Crimes

**THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) is seised of the “Appeal of the Co-Prosecutors in Response to Co-Investigating Judges Order Regarding Request to Place on Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons’ Knowledge of the Crimes” (“the Appeal”)<sup>1</sup> dated 4 May 2010 by the Co-Prosecutors against the Co-Investigating Judges’ “Order on Co-Prosecutors’ Request to Place on the Case File Additional Evidentiary Material which Assists in Proving the Charged Persons’ Knowledge of the Crimes” (“the First Impugned Order”)<sup>2</sup> dated 5 April 2010. The Co-Investigating Judges issued the First Impugned Order in response to the “Co-Prosecutors’ Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons’ Knowledge of the Crimes” (“the Request”)<sup>3</sup> dated 11 February 2010.

The Pre-Trial Chamber is further seised of the oral responses to the Appeal made by the defence teams of the charged persons IENG Sary, KHIEU Samphan and NUON Chea given at the hearing of 26-27 May 2010.<sup>4</sup> The Pre-Trial Chamber is further seised of the “Co-Prosecutors’ Written Submissions Pursuant to the Pre-Trial Chamber’s Decision of 15 June 2010” (“the Co-Prosecutors’ Reconsideration Submission”)<sup>5</sup> dated 28 June 2010 against the Co-Investigating Judges’ “Order in Response to the Decision of the Pre-Trial Chamber on Co-Prosecutors’ Appeal Against the Co-Investigating Judges’ Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in

<sup>1</sup> Co-Prosecutors’ Appeal Brief in Response to the Co-Investigating Judges Order Regarding Request to Place on Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons’ Knowledge of the Crimes, 4 May 2010, D365/2/1 (“the Appeal”).

<sup>2</sup> Order on Co-Prosecutors’ Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons’ Knowledge of the Crimes, 5 April 2010, D365/1 (“the First Impugned Order”).

<sup>3</sup> Co-Prosecutors’ Request to Place on the Case File Additional Evidentiary Material Which Assists in Proving the Charged Persons’ Knowledge of the Crimes, 11 February 2010, D365 (“the Request”).

<sup>4</sup> Document Nos D-365/2, Hearing Transcript, 26 May 2010, ERN 00531441-00531487 and D-365/2, Hearing Transcript, 27 May 2010, ERN 00531583-00531634.

<sup>5</sup> Co-Prosecutors’ Written Submissions Pursuant to the Pre-Trial Chamber’s Decision of 15 June 2010, 28 June 2010, D365/2/12 (“the Co-Prosecutors’ Reconsideration Submission”).

Decision on Reconsideration of Co-Prosecutors’ Appeal Against the Co-Investigating Judges Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons’ Knowledge of the Crimes



Proving the Charged Persons' Knowledge of the Crimes" ("the Second Impugned Order")<sup>6</sup> dated 21 June 2010.

The Pre-Trial Chamber is further seised of the following timely filed responses to the Co-Prosecutors' Reconsideration Submission: "Response to Co-Prosecutors' Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010"<sup>7</sup> dated 2 July 2010 made by the defence of NUON Chea ("the NUON Chea Response") and the "Response of Mr. KHIEU Samphan's Defence to the Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber Decision of 15 June 2010"<sup>8</sup> dated 7 July 2010 ("the KHIEU Samphan Response").

The Pre-Trial Chamber issued its "Decision on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes" ("the 15 June 2010 Decision") on 15 June 2010.<sup>9</sup> In the 15 June 2010 Decision, the Pre-Trial Chamber determined that the Appeal is admissible and directed the Co-Investigating Judges to correct certain enumerated deficiencies in the First Impugned Order.<sup>10</sup>

The Pre-Trial Chamber has determined the final disposition of the Appeal, which it hereby pronounces. A reasoned decision in respect of the Appeal shall follow in due course.

<sup>6</sup> Order in Response to the Decision of the Pre-Trial Chamber on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 21 June 2010, D365/3 ("the Second Impugned Order").

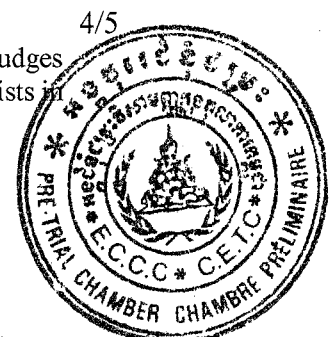
<sup>7</sup> Response to Co-Prosecutors' Submissions Pursuant to the Pre-Trial Chamber's Decision of 15 June 2010, 5 July 2010, D365/2/13 ("the NUON Chea Response").

<sup>8</sup> Response of Mr. KHIEU Samphan's Defence to the Co-Prosecutors' Written Submissions Pursuant to the Pre-Trial Chamber Decision of 15 June 2010, 7 July 2010, D365/2/15 ("the KHIEU Samphan Response").

<sup>9</sup> Decision on Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes, 15 June 2010, D365/2/10 ("the 15 June 2010 Decision").

<sup>10</sup> 15 June 2010 Decision, paras 7, 27.

Decision on Reconsideration of Co-Prosecutors' Appeal Against the Co-Investigating Judges' Order on Request to Place Additional Evidentiary Material on the Case File Which Assists in Proving the Charged Persons' Knowledge of the Crimes



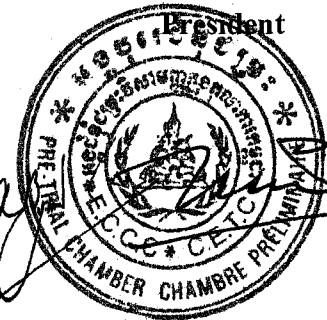
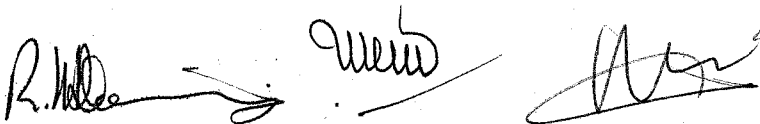
**THEREFORE, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:**

**CONFIRMS** the partial denial of the Request in the First Impugned Order and Second Impugned Order; and  
**DISMISSES** the Appeal.

In accordance with Internal Rule 77(13), this decision is not subject to appeal.

Phnom Penh, 14 July 2010 <sup>CR</sup>

Pre-Trial Chamber



**Rowan DOWNING NEY Thol Catherine MARCHI-UHEL HUOT Vuthy PRAK Kimsan**