



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)

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

Date: 09 July 2010

PUBLIC

WARNING FOR UNAUTHORISED DISCLOSURE OF CONFIDENTIAL INFORMATION

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Co-Investigating Judges

Judge YOU Bunleng
Judge Marcel LEMONDE

Unrepresented Civil Parties

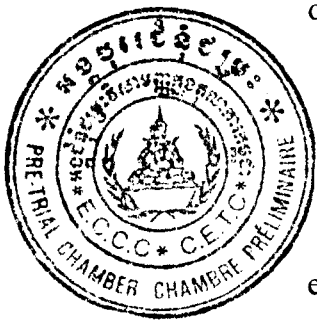


The Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia observes that two recent articles published in *The Cambodia Daily* contain confidential information relating to matters of which the Pre-Trial Chamber is currently seised (“the Matters”).¹

1. The Pre-Trial Chamber reminds all parties in Case 002 of the following:

- a) A filing party may propose that a document be classified as ‘Public’ in accordance with the provisions of the Practice Direction on the Classification and Management of Case-Related Information. However, until the issuance of the Closing Order and the determination of any appeal against the Closing Order, the Pre-Trial Chamber shall consider whether the proposed classification is appropriate and, if not, determine the appropriate classification.²
- b) Subject to a different classification in accordance with a Court decision, filings to the Pre-Trial Chamber are in principle confidential until the Chamber has decided on the matter.³
- c) The Pre-Trial Chamber determined that the appropriate classification of the Matters is ‘Confidential.’
- d) ‘Confidential’ “means open only to the Judges, the Co-Prosecutors, lawyers for the civil parties, defence counsel, authorised court staff and any other person expressly given access by the Court.”⁴ The Pre-Trial Chamber did not give *The Cambodia Daily* access to any part of the Matters.
- e) The duty of confidentiality states:

All persons having access to confidential or strictly confidential information are under a duty of confidentiality. They shall not disclose such



¹ Douglas Gillison, ‘Ieng Sary Lawyers Push for Tribunal Inquest on Government,’ *The Cambodia Daily*, 23 June 2010, Volume 45, Issue 86, p. 20; Douglas Gillison, ‘Nuon Chea team accuses You Bunleng of political bias,’ *The Cambodia Daily*, 28 June 2010, Volume 45, Issue 90, p. 30.

² Practice Direction on Filing of Documents Before the ECCC, ECCC/01/2007/Rev. 4, Article 3.12 <http://www.eccc.gov.kh/english/cabinet/courtDoc/360/PD_Filing_Revision_4_final_En.pdf>.

³ Practice Direction on Classification and Management of Case-Related Information, ECCC/004/2009, Article 5.1.h <http://www.eccc.gov.kh/english/cabinet/courtDoc/361/PD_Classification_Body_EN.pdf>.

⁴ Practice Direction on Classification and Management of Case-Related Information, Article 2.d.ii.

information to any person, except in accordance with this Practice Direction. Further, they shall not act in a manner which would lead to unauthorised disclosure of any confidential or strictly confidential information.⁵

A violation of this duty shall result in a sanction in accordance with the Internal Rules.⁶

- f) Pursuant to Internal Rule 56(1), “All persons participating in the judicial investigation shall maintain confidentiality.”

**THE PRE-TRIAL CHAMBER THEREFORE ISSUES THE FOLLOWING
WARNING:**

1. In accordance with Internal Rule 35(1), the Pre-Trial Chamber may sanction or refer to the appropriate authorities any person it has found to have knowingly and wilfully interfered with the administration of justice, including any person who discloses confidential information not in accordance with the Practice Direction on the Classification and Management of Case-Related Information, or who is otherwise in breach of Internal Rule 56(1) insofar as a matter relates to a judicial investigation.
2. In accordance with Internal Rule 38(1)-(2), the Pre-Trial Chamber may, after a warning, impose sanctions against or refuse audience to a lawyer if, in their opinion, his or her conduct is considered offensive or abusive, obstructs the proceedings, amounts to abuse of process, or is otherwise contrary to Article 21(3) of the Agreement. The Pre-Trial Chamber may also refer such misconduct to the appropriate professional body.

Phnom Penh, 09 July 2010 *Pl.*

President of the Pre-Trial Chamber



PRAK KIMSAN

⁵ Practice Direction on Classification and Management of Case-Related Information, Article 8.1.

⁶ Practice Direction on Classification and Management of Case-Related Information, Article 11.