



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

អង្គជំនុំជម្រះតុលាការកំពូល

Supreme Court Chamber

Chambre de la Cour suprême

សំណុំរឿងលេខ: ០០២/១៩-កញ្ញា-២០០៧-អ.វ.ត.ក/អ.ជ.ត.ក

Case File/Dossier N°. 002/19-09-2007-ECCC/SC

Before:

Judge KONG Srim, President

Judge Chandra Nihal JAYASINGHE

Judge SOM Sereyvuth

Judge Agnieszka KLONOWIECKA-MILART

Judge MONG Monichariya

Judge Florence Ndepele MWACHANDE-MUMBA

Judge YA Narin

Date:

3 December 2015

Language(s):

Khmer/English

Classification:

PUBLIC

**DECISION ON CO-PROSECUTORS' SUBMISSIONS ON PROCEEDING WITH
APPEAL HEARINGS**

Co-Prosecutors

CHEA Leang

Nicholas KOUMJIAN

Co-Lawyers for NUON Chea

SON Arun

Victor KOPPE

Accused

KHIEU Samphân

NUON Chea

Co-Lawyers for KHIEU Samphân

KONG Sam Onn

Anta GUISSÉ

Arthur VERCKEN

Civil Party Lead Co-Lawyers

PICH Ang

Marie GUIRAUD

THE SUPREME COURT CHAMBER of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea between 17 April 1975 and 6 January 1979 (“Supreme Court Chamber” and “ECCC”, respectively);

NOTING the “Co-Prosecutors’ Submissions on Proceeding with Appeal Hearings” filed on 23 November 2015 (“Request”),¹ regarding the modalities to move forward in the appeal proceedings in Case 002/01 after the appeal hearing, scheduled for 17-19 November 2015 (“Appeal Hearing”),² was adjourned due to the lack of legal representation for NUON Chea resulting from his International Co-Lawyer not attending the Appeal Hearing and his National Co-Lawyer leaving the courtroom in spite of the Supreme Court Chamber’s order to remain present;³

RECALLING that the Supreme Court Chamber ruled at the Appeal Hearing (“Oral Decision”)⁴ and the President of this Chamber later detailed (“Follow-up Memorandum”)⁵ that the Defence Support Section is to appoint a standby counsel for NUON Chea so that, should NUON Chea lack proper legal assistance when the appeal hearings resume, such mandatory in-court assistance may be provided by a court-appointed lawyer;

NOTING that the Request, argues that the legal framework applicable to proceedings before the ECCC does not require, under the present circumstances, the presence of NUON Chea’s Co-Lawyers in the courtroom during appeal hearings, and thus asks this Chamber not to proceed with the appointment of standby counsel but to instead determine whether NUON Chea genuinely intends to waive his right to be assisted by counsel and, if so, continue the hearings with the Accused remaining unassisted by any lawyer present in the courtroom;⁶

CONSIDERING that during the Appeal Hearing, before the Oral Decision was rendered, the Supreme Court Chamber gave the parties the opportunity to make submissions on how to proceed, and that the Co-Prosecutors argued, similarly to their instant Request, that NUON

¹ F30/16.

² Order Setting the Final Timetable for the Appeal Hearing and Informing the Parties of the Issues to Be Addressed, 5 November 2015, F30/4.

³ Transcript (EN) of 17 November 2015, F1/4.1.

⁴ Transcript (EN) of 17 November 2015, F1/4.1, pp. 36-39.

⁵ Supreme Court Chamber’s Memorandum entitled “Follow-up to Supreme Court Chamber’s Instruction to Appoint Standby Counsel for NUON Chea”, 19 November 2015, F30/15.

⁶ Request, paras 37-38, 45.

Chea had waived his right to be represented by counsel and that the Appeal Hearing should therefore continue as scheduled;⁷

CONSIDERING that the Supreme Court Chamber sees no need to engage with the merits of the Request, since the requests contained therein are rendered moot by the Oral Decision and its Follow-up Memorandum, and the Co-Prosecutors failed to present any compelling reasons, including any change in circumstances, which would warrant a reconsideration of the matter;

HEREBY:

DISMISSES the Request.

Phnom Penh, 3 December 2015

President of the Supreme Court Chamber



KONG Srim

⁷ Transcript (EN) of 17 November 2015, F1/4.1, pp. 33-35.