



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: 11 December 2015

Language(s): Khmer/English

Classification: PUBLIC

**DECISION ON RENEWED REQUESTS TO INTERVENE OR SUBMIT *AMICUS CURIAE*
BRIEF IN CASE 002/01 APPEAL PROCEEDINGS**

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” or “Chamber”, and “ECCC”, respectively);

BEING SEIZED of a request filed on 20 November 2015 by MEAS Muth, a charged person in Case 003, to intervene in the appeal proceedings of Case 002/01 or, in the alternative, file an *amicus curiae* brief on the applicability of the extended form of joint criminal enterprise (“JCE III”) in proceedings before the ECCC (“Request”);¹

NOTING that MEAS Muth contends that NUON Chea’s decision of 17 November 2015 not to make further submissions nor to respond to potential questions from the bench in Case 002/01² caused a change of circumstances such as to justify, in the interests of justice, MEAS Muth’s intervention, orally and in writing, or his submission of an *amicus curiae* brief addressing the issue of the applicability of JCE III at the ECCC;³

NOTING that no response to the Request from other parties in Case 002/01 has been received within the statutory time limit;

RECALLING the Supreme Court Chamber’s decision of 8 April 2015 (“Decision”),⁴ where the Chamber rejected similar requests from the Case 003 and Case 004 Defence to intervene or submit *amici curiae* briefs in Case 002/01 on the applicability of JCE III at the ECCC, on grounds, *inter alia*, that: (i) the Case 003 and Case 004 Defence “clearly ha[d] an interest in the present matter and its outcome” and “could not offer any further submissions in addition to those already submitted to shed further light on the matter”, and thus the Chamber found that it would not be desirable for the proper adjudication of the case to grant leave to submit *amici curiae* briefs;⁵ (ii) third-party interventions must serve legitimate interests of the requesting entities, where denial thereof could cause them prejudice, while keeping in mind that such applications are primarily to be granted on a case-by-case basis when the interests

¹ MEAS Muth’s Renewed Request to Intervene in the Appeal Proceedings in Case 002/01 for the Purpose of Addressing the Applicability of JCE III at the ECCC or, in the Alternative, Renewed Request for Leave to Submit *Amicus Curiae* Brief on JCE III Applicability, 20 November 2015, F31.

² Transcript (EN) of 17 November 2015, F1/4.1, p. 17.

³ Request, paras 3-4.

⁴ Decision on Requests to Intervene or Submit *Amici Curiae* Briefs in Case 002/01 Appeal Proceedings, 8 April 2015, F20/1.

⁵ Decision, para. 9.

of justice so dictate;⁶ (iii) in light of the “plethora of submissions” concerning the applicability of JCE III on file, the interests of the suspects in Case 003 and Case 004 were already adequately protected, rendering the relief that was sought superfluous;⁷ and (iv) it was likely that the Case 003 and Case 004 Defence would be unable to provide arguments that are not repetitive or overlapping with those already on file;⁸

CONSIDERING that NUON Chea’s indication that he does not wish to make further submissions in the Case 002/01 appeal proceedings does not affect the reasons relied upon in the Decision to reject past requests and that, therefore, there has been no change of circumstances that would warrant reconsideration of the decision not to allow a suspect in Case 003 to participate in the present proceedings as either an intervener or as an *amicus curiae*;

HEREBY:

DISMISSES the Request.

Phnom Penh, 11 December 2015

President of the Supreme Court Chamber



KONG Srim

⁶ Decision, paras 10-12.

⁷ Decision, para. 14.

⁸ Decision, paras 13-14.