



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

D99/3/1

អង្គបុរេជំនុំជម្រះ

PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE

**Declassified to Public
06 September 2012**

Criminal Case File N° 001/18-07-2007-ECCC/OCIJ (PTC02)

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

Date: 2 September 2008

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): 02 SEP 2008
ម៉ោង (Time/Heure): 16:00
មន្ត្រីទទួលបន្ទុកឯកសារ (Case File Officer/L'agent chargé du dossier): C.A. Guy

CONFIDENTIAL

DIRECTIONS TO THE PARTIES CONCERNING TRIAL CHAMBER REQUEST TO BE GRANTED ACCESS TO THE CASE FILE

Co-Prosecutors

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
PICH Sambath
Alex BATES

ឯកសារចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ បញ្ជាក់ (Certified Date/Date de certification): 03 SEP 2008
មន្ត្រីទទួលបន្ទុកឯកសារ (Case File Officer/L'agent chargé du dossier): C.A. Guy

Charged Person

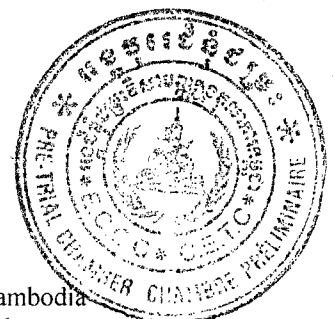
Kaing Guek Eav alias "DUCH"

Lawyers for the Civil Parties

KONG Pisey
HONG Kimsuon
YOUNG Panith
Silke STUDZINSKY

Co-Lawyers for the Defence

KAR Savuth
François ROUX



1. **THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the letter from the President of the Trial Chamber dated 29 August 2008 asking that the Judges and immediate support staff of the Trial Chamber be granted electronic access through the ECCC ZyIMAGE Search Portal to the Case File No. 001/18-07-2007-ECCC/OCIJ, a copy of which is enclosed (the “Request”).
2. While the Trial Chamber acknowledges that “it will not be formally seized of the case until the decision of the Pre-Trial Chamber on the appeal against the Closing Order”, it submits that “substantial preparatory progress could be achieved” in the interests of ensuring expeditious proceedings if the Request is granted.
3. The Pre-Trial Chamber notes that the Co-Prosecutors filed, on 21 August 2008, a Notice of Appeal against the Closing Order of the Co-Investigating Judges in the Case File 001/18-07-2007-ECCC/OCIJ.
4. Consequently, this Case File has been forwarded to the Pre-Trial Chamber in accordance with Internal Rule 69(1), which provides:

“Where an appeal is filed against a Closing Order, the Greffier of the Co-Investigating Judges shall forward the case file to the Greffier of the Pre-Trial Chamber as provided in Rule 77.”
5. The Pre-Trial Chamber notes Internal Rule 76(7), which provides that “[s]ubject to any appeal, the Closing Order shall cure any procedural defects in the judicial investigation.”
6. Internal Rule 76(5) further provides that “annulled actions or orders, and certified copies, shall be removed from the case file and archived by the Greffier of the Chamber.”
7. Since the Closing Order is not final at this moment, any possible procedural defects in the judicial investigation have not yet been cured as provided by Internal Rule 76(7).
8. In these circumstances, the Pre-Trial Chamber finds it appropriate to invite the Parties to submit any objection to the Request.



THEREFORE, THE PRE-TRIAL CHAMBER HEREBY DIRECTS THE PARTIES TO:

File any objection concerning the Request by **3:30 pm on Friday 5 September 2008.** mf

Phnom Penh, 2 September 2008

President of the Pre-Trial Chamber



PRAK KIMSAN



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
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INTEROFFICE MEMORANDUM – TRIAL CHAMBER

TO: His Excellency, the President of the Pre-Trial Chamber Date: 29 August 2008

Ref: Duch/20080826/1/ENG

THROUGH:

FROM: Judge NONN Nil, President of the Trial Chamber

SUBJECT: Zylab Access by the Trial Chamber to Case File N° 001/18-07-2007-ECCC/OCIJ

Your Excellency

On 8 August 2008, the Trial Chamber received public notice of the filing, by the Office of the Co-Investigative Judges, of the Closing Order in **Case File N° 001/18-07-2007-ECCC/OCIJ**.

By the same means, the Trial Chamber also noted that on 21 August 2008 the Office of the Co-Prosecutors filed a Notice of Appeal against the Closing Order. As you are aware, the grounds of appeal are expected to be filed soon before the Pre-Trial Chamber. In accordance with the ECCC Rules, as the Closing Order is subject to appeal, the Case File cannot be forwarded to the Trial Chamber for the initiation of the trial proceedings.

Article 33 New of the ECCC Law, *inter alia*, mandates the Trial Chamber to “ensure that trials are fair and expeditious and are conducted in accordance with existing procedures in force, with full respect for the rights of the accused and for the protection of victims and witnesses”. I refer also to the provisions of Internal Rule 21.

The Judges of the Trial Chamber believe that substantial preparatory progress could be achieved if the Trial Chamber, as well as its immediate support staff, are at this stage, allowed electronic access through the **ECCC ZyIMAGE Search Portal** (“Zylab Access”) to the **Case File N° 001/18-07-2007-ECCC/OCIJ**.

The Chamber is cognizant that it will not be formally seized with the case until the decision of the Pre-Trial Chamber on the appeal against the Closing Order. The Chamber is also cognizant of the current confidential nature of the Case File.

In light of the above, I invite the Pre-Trial Chamber to enquire as soon as possible if the Office of the Co-Prosecutors, the Charged Person and his Defence Team, as well as the admitted Civil Parties have any objection to granting to the Trial Chamber, as well as to its immediate staff, Zylab Access to the **Case File N° 001/18-07-2007-ECCC/OCIJ**.

With my best regards,

Judge NONN Nil
President of the Trial Chamber