



**អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា**

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

D/97/5/3

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 30)

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

**Date:** 27 January 2010

**ឯកសារដើម**  
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du dossier: ..... CA. 7M .....

**ឯកសារច្បាប់ចម្លងត្រឹមត្រូវតាមច្បាប់ដើម**  
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du dossier: ..... CA. 7M .....

PUBLIC

**DECISION TO DETERMINE THE APPEAL ON WRITTEN SUBMISSIONS AND DIRECTION FOR A REPLY**

**Co-Prosecutors**

CHEA Leang  
Andrew CAYLEY  
YET Chakriya  
William SMITH  
SENG Bunkheang  
Vincent de WILDE d'ESTMAEL

**Charged Person**

KHIEU Samphan

**Lawyers for the Civil Parties**

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Marie GUIRAUD  
Patrick BAUDOIN  
Olivier BAHUGNE  
David BLACKMAN  
CHET Vanly  
ANG Pich

**Unrepresented Civil Parties**



**THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) notes the “Appeal against the Order on the Request for Annulment for Abuse of Process” filed by the Co-Lawyers for the Charged Person on 27 November 2009 (the “Appeal”).<sup>1</sup>

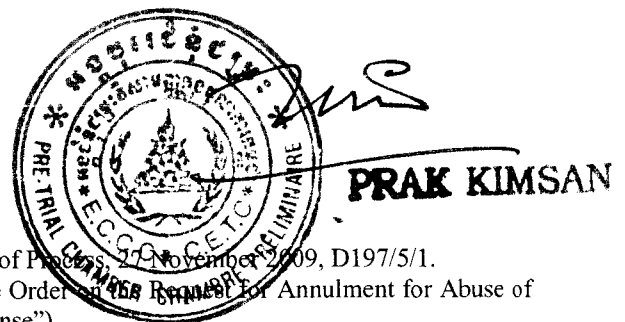
2. The Co-Prosecutors filed their Response to the Appeal on 11 December 2009 (the “Co-Prosecutors’ Response”).<sup>2</sup>
3. The Pre-Trial Chamber observes that in the Appeal the Co-Lawyers for the Charged Person do not request a hearing and that the Co-Prosecutors in their Response ask that the Appeal be determined on written pleadings alone.
4. The Pre-Trial Chamber finds that it is not necessary to hold a hearing in this procedure as it has no questions which need to be addressed. The Pre-Trial Chamber further notes that in a previous decision it has reasoned in general terms on the right to a hearing.<sup>3</sup> The Appeal will therefore be determined on the basis of written submissions
5. In accordance with Article 8(4) of the Practice Direction on Filing Documents before the ECCC, a reply to a response is permissible where there is to be no oral argument on a request.

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

1. **DECIDES** to determine the appeal on the basis of the written submissions;
2. **DIRECTS** the Co-Lawyers for the Charged Person to file their written Reply, if any, to the Response within 5 calendar days of notification of this decision.

Phnom Penh, 27 January 2010 *u*

**President, Pre-Trial Chamber**



<sup>1</sup> Appeal against the Order on the Request for Annulment for Abuse of Process, 27 November 2009, D197/5/1.

<sup>2</sup> Co-Prosecutors’ Response to Khieu Samphan’s Appeal against the Order on the Request for Annulment for Abuse of Process, 11 December 2009, D197/5/2, (the “Co-Prosecutors’ Response”).

<sup>3</sup> See Decision on Request to Reconsider the Decision on Request for an Oral Hearing on the Appeals PTC24 and 25, 20 October 2009, D164/4/9, paras. 15 – 24.