



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

អង្គជំនុំជម្រះសាលាដំបូង
Trial Chamber
Chambre de première instance

សំណុំរឿងលេខ: ០០២/១៩ កញ្ញា ២០០៧/អវតក/អជសដ
Case File/Dossier No. 002/19-09-2007-ECCC/TC

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ០៨ / ០៤ / ២០១១
ម៉ោង (Time/Heure): ១៥:៣០
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: <u>SANN RADA</u>

Before: Judge NIL Nonn, President
Judge Silvia CARTWRIGHT
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge THOU Mony

Date: 8 April 2011
Original language(s): Khmer/English/French
Classification: PUBLIC

DECISION ON IENG SARY'S MOTION FOR A HEARING ON THE CONDUCT OF THE JUDICIAL INVESTIGATIONS

Co-Prosecutors
CHEA Leang
Andrew CAYLEY

Accused
NUON Chea
IENG Sary
IENG Thirith
KHIEU Samphan

Civil Party Lead Co-Lawyers
PICH Ang
Elisabeth SIMONNEAU FORT

Lawyers for the Defence
SON Arun
Michiel PESTMAN
Victor KOPPE
ANG Udom
Michael G. KARNAVAS
PHAT Pouv Seang
Diana ELLIS
SA Sovan
Jaques VERGÈS
Philippe GRÉCIANO

THE TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia;

BEING SEISED of Case File No. 002/19-09-2007-ECCC/TC pursuant to the Decisions on Appeal against the Closing Order by IENG Sary, IENG Thirith, NUON Chea and KHIEU Samphan, rendered by the Pre-Trial Chamber on 13 January 2011;¹

NOTING “IENG Sary’s Motion for a Hearing on the Conduct of the Judicial Investigation”, filed on 25 March 2011 (“Motion”) and in which IENG Sary Defence requests the Trial Chamber to hold a hearing concerning the judicial investigation on the basis that “[i]t strongly appears that the judicial investigation was biased and otherwise flawed” and that “[i]f the judicial investigation is not scrutinized and any flaws and bias remedied, it will be impossible to hold a fair trial”;²

NOTING that parties were able to submit reasoned applications for the annulment of any part of the proceedings they considered null and void during the judicial investigation itself, and that any decisions concerning such applications were open to appeal before the Pre-Trial Chamber in accordance with the Internal Rules;³

CONSIDERING that subject to any appeal before the Pre-Trial Chamber, the Closing Order shall cure any procedural defects in the judicial investigation and no issues concerning such procedural defects might be raised before the Trial Chamber or the Supreme Court Chamber;⁴

FURTHER CONSIDERING that the request for a hearing is not in relation to any specific matter or alleged procedural defect and that the Motion requests no specific relief;

NOTING that the IENG Sary Defence has nonetheless again filed a lengthy Motion which was therefore unnecessary and has no legal basis;

CONSEQUENTLY REJECTS the Motion;

¹ Decision on Ieng Sary’s Appeal Against the Closing Order, 13 January 2011, D427/1/26; Decision on Ieng Thirith’s and Nuon Chea’s Appeals Against the Closing Order, 13 January 2011, D427/2/12; Decision on Khieu Samphan’s Appeal Against the Closing Order, 13 January 2011, D427/4/14; and Decision on Ieng Sary’s Appeal Against the Closing Order’s Extension of his Provisional Detention, 13 January 2011, D427/5/9.

² IENG Sary’s Motion for a Hearing on the Conduct of the Judicial Investigation, 25 March 2011, E71. The Motion has been provisionally filed as strictly confidential pending classification review of documents filed before the Pre-Trial Chamber currently classified as strictly confidential.

³ Internal Rule 76(2).

⁴ Internal Rule 76(7). *See also* Internal Rules 73 and 74(3).



DIRECTS that no translation into the French language be undertaken by the Interpretation and Translation Pool;

ORDERS the parties to refrain from responding to the Motion;

REFERS this matter for review to the Defence Support Section pursuant to its power to refuse part payment for work claimed where the work carried out is not “necessary and reasonable” (Article 10, Guide to the ECC Legal Assistance scheme) and which, pursuant to Rule 11(2)(h), has the responsibility to “monitor and assess the fulfillment of all contracts [with defence lawyers] and authorize corresponding remuneration in accordance with Defence Support Section administrative regulations”;

REQUESTS the Defence Support Section to report to the Chamber on all measures taken by it in consequence of this Decision no later than Friday 22 April 2011. *Nur Jaf*

Phnom Penh, 8 April 2011
President of the Trial Chamber



Nur Jaf
Nil Nonu