



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

CN/29

អង្គបុរេជំនុំជម្រះ

PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE

Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC 01)

PRE-TRIAL CHAMBER

Before: Judge PRAK Kimsan, President
Judge Rowan DOWNING
Judge PEN Pichsaly
Judge Katinka LAHUIS
Judge HUOT Vuthy

Date: 04 February 2008

ឯកសារបានថតចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
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**PUBLIC DECISION ON THE CO-LAWYERS' URGENT APPLICATION FOR
DISQUALIFICATION OF JUDGE NEY THOL PENDING THE APPEAL AGAINST THE
PROVISIONAL DETENTION ORDER IN THE CASE OF NUON CHEA**

Co-Prosecutors

CHEA Leang
Robert PETIT

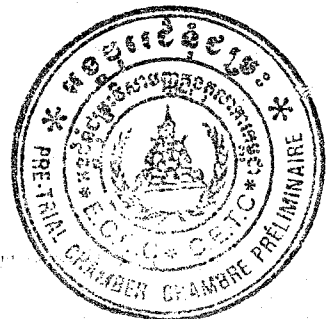
Charged Person

NUON Chea

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du dossier:SANN RADA.....

Defence Counsel

SON Arun
Michiel PESTMAN



THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”);

NOTING the Appeal against Provisional Detention Order of the Co-Investigating Judges of 19 September 2007 filed on 17 October 2007 and the Co-Lawyers’ Appeal Brief of 12 November 2007, and the scheduled hearing for this appeal on 4 February 2008.

SEIZED of the Defence’s Urgent Application for Disqualification of Judge Ney Thol, filed on 29 January 2008, pursuant to Rule 34 of the Internal Rules;

HAVING RECEIVED the Co-Prosecutors’ Preliminary Observations on Nuon Chea’s Urgent Application for Disqualification of Judge Ney Thol on 31 January 2008;

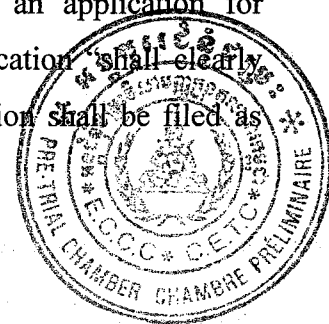
HAVING RECEIVED the Defence’s Response to Co-Prosecutors’ Preliminary Observations on Urgent Application for Disqualification of Judge Ney Thol on 01 February 2008;

HAVING RECEIVED the confidential submissions by Judge Ney Thol pursuant to Rule 34(7) on 01 February 2008;

CONSIDERING that Judge Ney Thol did not decide to step down voluntarily;

I. PRELIMINARY OBSERVATIONS

1. On 28 January 2008 the Defence tried to file their Urgent Application for Disqualification of Judge Ney Thol. As the Application did not meet the requirements set out in the Practice Direction on the Filing of Documents before the ECCC, it was returned as deficiently filed. On 29 January 2008 the Co-Lawyers filed their application in compliance with the Practice Direction.
2. The Pre-Trial Chamber notes that the application filed on 29 January 2008 is signed only by Victor Koppe and on behalf of Michiel Pestman. The Pre-Trial Chamber furthermore notes that Victor Koppe has not yet been admitted by the Bar Association of the Kingdom of Cambodia.
3. Rule 34(2) of the Internal Rules provides that “any party may file an application for disqualification of a judge [...]”. Paragraph (3) provides that such application shall clearly indicate the grounds and shall provide supporting evidence. The application shall be filed as soon as the party becomes aware of the grounds in question”.

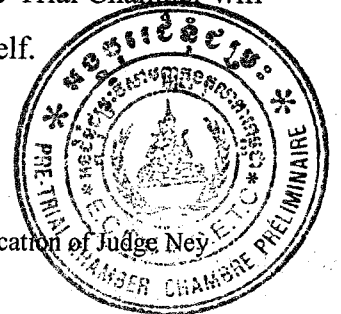


4. The Pre-Trial Chamber observes that the evidence adduced on behalf of the Charged Person was available well before his arrest on 19 September 2007. The Chamber therefore questions the compliance with the requirement in Rule 34(3) that the application for disqualification should be filed “as soon as the party becomes aware of the grounds in question”.
5. According to Rule 34(5) of the Internal Rules “the Judge in question may continue to participate in the judicial proceedings pending a decision”. Paragraph (7) provides that the Chamber Judges shall consider the application for disqualification of the Judge, along with the submissions by the Judge and shall vote on the matter.
6. The Co-Prosecutors submit that there is little basis for the purported urgency of this Request. According to the Co-Prosecutors, the timing of the filing and the consequent dates set to respond are neither conducive to the proper administration of justice nor to a sound disposition of such a serious matter. They argue that it should be dealt with appropriately by the Pre-Trial Chamber with due regard being paid to the opportunity for all parties involved to fully respond to the legal and factual basis of the Request.¹
7. The Defence submit in their response to the Co-Prosecutors’ Preliminary Observations that “the Defence is in full agreement with the submissions of the Office of the Co-Prosecutors that “it is not necessary to decide on this Request before the Appeal Hearing” and propose that for Judge Ney Thol to step down voluntarily “appears to be the most prudent course of action”. The Defence have also requested the Pre-Trial Chamber to invite the submission of written *amicus curiae* briefs and to hold a public hearing.

PRELIMINARY FINDINGS

8. The Pre-Trial Chamber finds that Rule 34 provides for a number of procedural possibilities for determining an application for disqualification. In this case the Pre-Trial Chamber finds that it has sufficient information to decide on the application, and it is in the interests of justice to proceed expeditiously to consider the matter without holding a public hearing or calling for written *amicus curiae* briefs. Furthermore, in the interests of justice, the Pre-Trial Chamber will not examine the question of possible technical defects in the application itself.

¹ Co-Prosecutors’ Preliminary Observations on Nuon Chea’s Urgent Application for Disqualification of Judge Ney Thol, 28 January 2008, para. 9.



II. ADMISSIBILITY OF THE APPLICATION

9. The Application requests the Pre-Trial Chamber to disqualify Judge Ney Thol from any and all further proceedings². The jurisdiction of the Pre-Trial Chamber is defined by Internal Rule 34.2, which provides :

“Any party may file an application for disqualification of a judge in any case in which the Judge has a personal or financial interest or concerning which the Judge has, or has had, any association which objectively might affect his or her impartiality, or objectively gives rise to the appearance of bias”.

10. This means that the Pre-Trial Chamber has jurisdiction to consider the application for disqualification in the appeal against the Provisional Detention Order of Nuon Chea. Therefore, the application as originally filed was inadmissible to the extent that it requests that a general order of disqualification be made. The Defence attempted to correct this in their Response to the Co-Prosecutors' Preliminary Observations.

11. The Pre-Trial Chamber deems the application admissible to the extent that it seeks the disqualification of Judge Ney Thol in the proceedings concerning the provisional detention appeal by Nuon Chea only.

III. THE TEST FOR BIAS

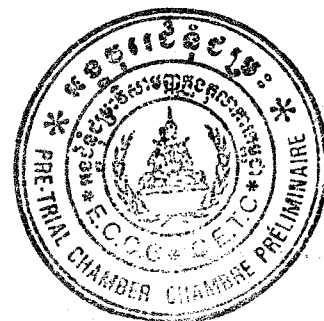
12. The test for bias to be applied by the Pre-Trial Chamber is provided in Internal Rule 34.2, as mentioned above, and which refers to actual bias and perceived bias.

13. The Defence submits that they are “unaware of any evidence of actual bias on the part of Judge Ney against Mr. Nuon or the Khmer Rouge.” Furthermore, the instant application does not allege any personal or financial interest in the outcome of the ECCC proceedings. Accordingly, the Defence does not seek to satisfy either the Subjective Test or the first prong of the Objective Test, as formulated by the *Furundzija* Judgement and reflected in Rule 34(2)”.³

14. The Defence submits further in paragraph 24 of their application:

² See the Application for Disqualification paragraphs 1 and 49.

³ See the Application for Disqualification paragraph 23.



The crux of the application is twofold: (i) Judge Ney's position as an officer in the RCAF amounts to an "association which objectively might affect his [...] impartiality" and (ii) his demonstrated willingness to inappropriately employ his judicial power at the behest of the CPP "objectively give[s] rise to the appearance of bias". In other words, Judge Ney's position as a serving military officer and his participation in highly questionable judicial decisions "would lead a reasonable observer, properly informed, to reasonably apprehend bias" against Mr. Nuon and the Khmer Rouge and in favour of the CPP.

15. The Pre-Trial Chamber notes that "the starting point for any determination of a claim [of bias] is that "there is a presumption of impartiality which attaches to a Judge".⁴ "This presumption derives from their oath to office and the qualifications for their appointment [...], and places a high burden on the party moving for the disqualification to displace that presumption".⁵

16. The Pre-Trial Chamber considers that this presumption of impartiality applies to the Judges of the ECCC. Article 3.3 of the Agreement Between the United Nations and the Royal Government of Cambodia concerning the Prosecution under Cambodian Law of Crimes Committed during the Period of Democratic Kampuchea ("the Agreement") provides:

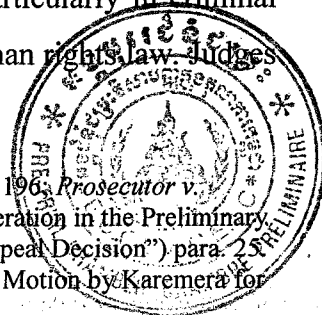
The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for their appointment to judicial offices. They shall be independent in the performance of the functions and shall not accept or seek instructions from any Government or any other source.

By Article 7.2 of the Agreement this provision applies equally to the judges of the Pre-Trial Chamber.

17. Article 10 new of the ECCC Law provides that "the Judges of the Extraordinary Chambers shall be appointed from among the currently practising Judges or are additionally appointed in accordance with the existing procedures for appointment of Judges; all of whom shall have high moral character, a spirit of impartiality and integrity, and experience, particularly in criminal law or international law, including international humanitarian law and human rights law. Judges

⁴ *Prosecutor v. Furundzija*, IT-95-17/1-A, "Judgment", Appeals Chamber, 21 July 2000, para. 196; *Prosecutor v. Norman*, SCSL-2004-14-PT, "Decision on the Motion to Recuse Judge Winter from the Deliberation in the Preliminary Motion on the Recruitment of Child Soldiers", Appeals Chamber, 28 May 2004, ("Norman Appeal Decision") para. 25.

⁵ *Prosecutor v. Karemera, Rwamajuba, Ngirumpatse, Nzirorera*, ICTR-98-44-T, "Decision on Motion by Karemera for Disqualification of Trial Judges", 17 May 2004, para. 10; Norman Appeal Decision, para. 25.



shall be independent in the performance of their functions, and shall not accept or seek any instructions from any government or any other source”.

18. On 7 May 2006, the Judges of the Pre-Trial Chamber of the ECCC, including Judge Ney Thol, were appointed by Royal Decree and subsequently officially sworn in during an official ceremony.⁶

19. It is for the Appellant to adduce sufficient evidence to satisfy the Pre-Trial Chamber that the Judge in question can be objectively perceived to be biased. There is a high threshold to reach in order to rebut the presumption of impartiality.

20. The jurisprudence of the international tribunals is consistent in the test for bias applied here. The Appeals Chamber of the ICTY has held in the case of *Furundzija* that:

A Judge is not impartial if it is shown that actual bias exists.

There is an appearance of bias if:

- A Judge is a party to the case, or has a financial or proprietary interest in the outcome of a case, or if the Judge’s decision will lead to the promotion of a cause in which he or she is involved, together with one of the parties. Under these circumstances, a Judge’s disqualification from the case is automatic; or
- The circumstances would lead a reasonable observer, properly informed, to reasonably apprehend bias.⁷

This jurisprudence is applied generally by international tribunals.

21. The reasonable observer in this test must be “an informed person, with knowledge of all of the relevant circumstances, including the traditions of integrity and impartiality that form a part of the background and appraised also of the fact that impartiality is one of the duties that Judges swear to uphold”.⁸

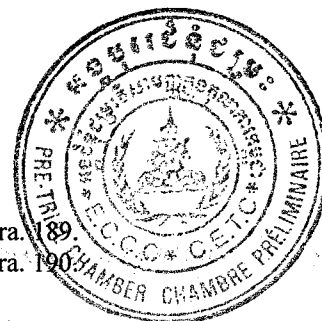
IV. CONSIDERATION OF THE APPLICATION

22. The Pre-Trial Chamber will consider the two allegations in turn.

⁶ Royal Decree of 07 May 2006, NS/RKT/0506/214.

⁷ *Prosecutor v. Furundzija*, IT-95-17/1-A, “Judgment”, Appeals Chamber, 21 July 2000, para. 189.

⁸ *Prosecutor v. Furundzija*, IT-95-17/1-A, “Judgment”, Appeals Chamber, 21 July 2000, para. 190.

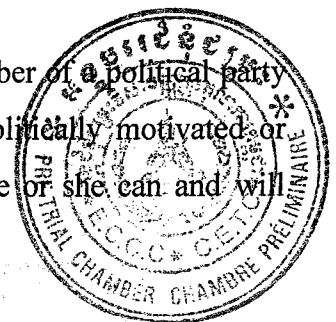


i. Judge Ney Thol's position as a serving RCAF officer

23. The Defence submits in paragraph 25 of the application that "as a serving RCAF officer, Judge Ney 'remain[s] subject to military discipline and assessment' and 'belong[s] to the army which in turn takes its orders from the executive', in this case the CPP Prime Minister".
24. The Pre-Trial Chamber considers that Judge Ney Thol's does not occupy his position as a Pre-Trial Chamber Judge of the ECCC in the capacity of an RCAF officer, but in his personal capacity. Judge Ney Thol has been appointed in accordance with Articles 3.3 and 7.2 of the Agreement and Article 10(new) of the ECCC Law.
25. The Pre-Trial Chamber finds that the comparison made by the Defence with the case of *Öcalan* before the European Court of Human Rights is not relevant. The military judge in the Turkish National Security Court, in the case of *Öcalan*, served as an officer and not in a civil and personal capacity.
26. The evidence adduced by the Defence on the position of Judge Ney Thol as President of the Military Tribunal and the conclusions drawn from this position do not therefore reach the required threshold of evidence required to rebut the presumption of impartiality.

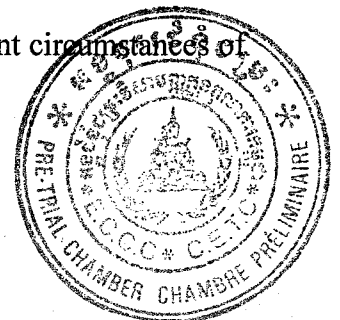
ii. Judge Ney Thol's participation in political cases

27. The Defence submits in paragraph 28 of the application that "Judge Ney has shown a seeming willingness to improperly utilize his judicial power in the service of the CPP's agenda. His role in three particular cases demonstrates the ostensible ease with which he appears to freely subjugate fundamental legal norms to considerations of political expediency". The Defence subsequently discusses three alleged "political cases" Judge Ney Thol participated in and adduces several reports relating to the unfairness of these trials and the alleged influence of the CPP in them. The Defence asserts that Judge Ney Thol is a member of the CPP.
28. The Pre-Trial Chamber notes that the mere fact that a judge was a member of a political party does not give rise to the necessary inference that his decisions are politically motivated or influenced. When a judge takes his oath of office it is assumed that he or she can and will disabuse their minds of any irrelevant personal beliefs or predispositions.



29. The Pre-Trial Chamber further observes that Judge Ney Thol submits that he resigned as a member of the Central Committee of the CPP upon his appointment. This is found to be the case. Reference is made to the copy of the acceptance of Judge Ney Thol's resignation on 26 July 2006.
30. The Pre-Trial Chamber notes that the ECCC, although it is part of the Cambodian court system, is a separate and independent court with no institutional connection to any other court in Cambodia. A judge of the ECCC is selected upon the basis of internationally agreed criteria and takes a separate and distinct judicial oath. In this respect the ECCC is a new internationalised court applying international norms and standards.
31. Furthermore, the Defence has not referred to any authority for the proposition that a judge's analysis in a different case could suggest bias in the case currently being heard. The Defence has not demonstrated that the opinions expressed in one case can give rise to any appearance of bias in another case. It is also important to note that Nuon Chea is not alleged to have been involved, or mentioned by Judge Ney Thol, in any previous case.
32. Much of the evidence produced by the Defence is that of commentary from third parties and relates in general terms to observations upon the alleged competence and motivation of the Cambodian judiciary as a whole, and not just Judge Ney Thol. These general observations and assertions are no evidence in respect of an apprehension of bias by Judge Ney Thol in this case of Nuon Chea.
33. No evidence adduced by the Defence is demonstrative of any instruction from a political party having been given to Judge Ney Thol or of him acting at the behest of the CPP or any other person.
34. Considering the high threshold to be reached by the Defence, the quality of the evidence submitted does not reach the standard to allow the conclusion that Judge Ney Thol acted upon the instruction of any political organisation or that he was politically motivated. There could be no such apprehension of bias by an objective observer informed of all relevant circumstances of the matters put before the Pre-Trial Chamber.

V. CONCLUSION



The Pre-Trial Chamber decides unanimously that:

- 1) The application is in part inadmissible, for the reasons given in paragraphs 9 to 11 above; and
- 2) Is otherwise dismissed.

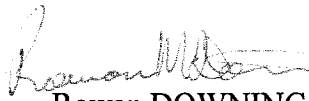
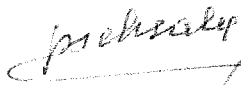
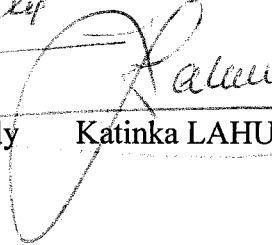


This decision is not open to appeal (Internal Rule 34.8).

GIVEN BY the Pre-Trial Chamber,

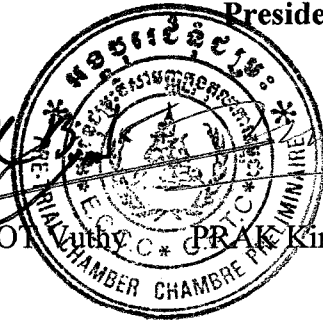
Phnom Penh, 4 February 2008

Pre-Trial Chamber

President

Rowan DOWNING PEN Pichsaly Katinka LAHUIS HUOT PRAK Kimsan



**Extraordinary Chambers in the Courts of Cambodia
Before the Pre-Trial Chamber**

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 du dossier: CHEA KASAL

**Judge Ney Thol's Brief in response to Application for Disqualification
 from Nuon Chea's Co-Lawyers
 dated 28 January 2008**

Filed by:
Judge Ney Thol

Distributed to:
Pre-Trial Chamber

Through: Judge Prak Kimsan
President of Pre-Trial Chamber

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 du dossier: SANN RADA

Introduction

1. Judge **Ney Thol**'s response to the lawyers' application for disqualification submitted to the Pre-Trial Chamber on 29 January 2008 which requests the Pre-Trial Chamber for my immediate dismissal from all ECCC proceedings. The lawyers suggest that my position in the Royal Cambodian Armed Forces would lead to bias, impartiality and non independence from ECCC proceedings.

Summary of Facts

2. On 29 January 2008 the Pre-Trial Chamber received an application for disqualification from Nuon Chea's lawyers who request the Pre-Trial Chamber to dismiss Judge **Ney Thol** from all ECCC proceedings. The lawyers' request is based on the following grounds:
 - a) Non independence in providing justice;
 - b) Relationship with the Military Court;
 - c) Relationship with the Political Party.

Relevant Laws

3. In compliance with Rule 34 of the Internal Rules of the Extraordinary Chambers in the Courts of Cambodia, a defense lawyer is entitled to request for disqualification of a Pre-Trial Chamber judge and the judge in question is entitled to file briefs to the Pre-Trial Chamber through its President.

Rule 34 of the Internal Rules

- 2) Any party may file an application for disqualification of an Investigating Judge, a Pre-Trial Judge, a Trial Judge or a Supreme Court Judge in any case in which the Judge has a personal or financial interest or concerning which the Judge has, or has had, any association which objectively might affect his or her impartiality, or objectively give rise to the appearance of bias.
- 3) A party who files an application for disqualification of a judge shall clearly indicate the grounds and shall provide supporting evidence. The application shall be filed as soon as the party becomes aware of the grounds in question.
- 4) The Judge shall be entitled to present written submissions to the Chamber within 10 (ten) days of his or her receipt of the application, through its President. The application for disqualification of the Judge, along with the submissions by the Judge, shall be considered by the Chamber Judges, who shall vote on the matter,

and hand down a written decision in the absence of the judge in question and the applicant.

The 2007 Code of Criminal Procedure of the Royal Kingdom of Cambodia

Article 556: Grounds for challenging a judge:

An application for disqualification is admissible only if it is directed against a judge.

Every judge may be challenged for the following causes:

- If the judge is linked with one of the parties by parental link up to sixth degree or by alliance up to third degree or was linked by alliance up to third degree;
- If there is a pending litigation between the judge and one of the parties;
- If the judge is a witness or was called to witness as expert in the case;
- If the judge is or was a representative or an assistant to one of the parties; or
- If the judge has participated in making the decision on the case as an arbitrator, at the first instance decision which was subject to appeal or the appeal decision is subject to appeal or having given legal opinion in the case.

Article 557:

The party who wishes to apply for disqualification of a judge shall file the application as soon as he or she becomes aware of the causes. Failure to do so shall cause the challenge to be inadmissible.

Response of Judge Ney Thol

4. I categorically reject the lawyers' submission for the following reasons:

A) Independence in providing justice

5. The lawyers' application for disqualification based on my being the military officer in the Royal Cambodian Armed Forces with its conclusion that I would not be independent as a judge in the Pre-Trial Chamber is unfounded, for the following reasons:

Independence of the Pre-Trial Chamber Hearing

6. ECCC is a mixed tribunal established by the agreement between the Royal Kingdom of Cambodia and the United Nations, and this mixed tribunal shall have the participation of the international judges in every hearing and proceeding. The Pre-Trial Chamber is composed of five judges, amongst whom, three national judges were appointed by the Supreme Council of Magistracy of the Kingdom of Cambodia and two international judges who were nominated by the Secretary

002/19-09-2007-ECCC/OCIJ (PTC01)

General of the United Nations were appointed by the Supreme Council of Magistracy. I was appointed by The Supreme Council of Magistracy and by the Decree of His Majesty the King of the Kingdom of Cambodia, signed on 08 May 2006. Furthermore, Rule 77.13 of the Internal Rules of the Extraordinary Chambers in the Courts of Cambodia stipulates that: "A decision of the Pre-Trial Chamber requires the affirmative vote of at least 4 (four) judges.

B) The non relationship with the Military Court

7. My position as the President of the Military Court does not have any influence on the proceedings of the Pre-Trial Chamber of the ECCC. As afore-mentioned, the Extraordinary Chambers is an independent Tribunal from National Tribunals, and any procedure applicable to this tribunal should be implemented according to the International Standard, especially the Principle of guaranteeing the respect of the right of the charged person. Moreover, the Military Court did not take any proceeding in the case of the charged person, Nuon Chea. As for the case of the charged person, Kaing Guek Eav alias Duch, the Military Court did take judicial proceedings against him, since at that time the Extraordinary Chambers was not yet established. The implimentation of the proceedings was that the Investigating Judge Ngin Sam An was directly involved, but with the respect of the Principle of Justice and the respect of the right of the charged person, I requested to withdraw myself from the proceedings while Duch was brought to the Extraordinary Chambers and placed under this Tribunal jurisdiction. In the contrary, Nuon Chea's case is completely different from Duch's due to the fact that the Military Court has never taken any proceeding against him.

C) The non relationship with the Political Party

8. After the appointment by the Supreme Coucil of Magistracy, I filed a request to the Standing Committee of the Cambodian People's Party to withdraw from my position as a member of the Central Committee of the Party, and on 26 July 2006 the Standing Committee decided unanimously to officially accept my resignation on the ground that I have been appointed as a judge of the Extraordinary Chambers in the Courts of Cambodia. To fulfill my role at the Extraordinary Chambers in the Courts of Cambodia, I have to comply with the Internal Rules of the Chambers, which clearly define the procedure for implementation and also ensure the right of the charged person is respected. Moreover, the Internal Rules are the combination of the national laws and the international treaties and conventions regarding the respect of human rights.

Failure to submit the application for disqualification after knowing the reason

9. Referring to Article 557 of the 2007 Code of Criminal Procedure of the Kingdom of Cambodia, any party who wants to file an application for disqualification of a judge shall submit that application as soon as he or she becomes aware of the

002/19-09-2007-ECCC/OCIJ (PTC01)

causes for filing, otherwise the application shall be inadmissible. As already mentioned in paragraph 7, I once withdrew myself from the bench for the hearing on the appeal motion of the charged person, Kaing Guek Eav alias Duch. The announcement of my withdrawal from that proceeding was made in public and widely published in the media and was also available on the ECCC website. In that case, the lawyers of the charged person, Nuon Chea, clearly have known about this information, but failed to file the application for disqualification even after having the information regarding the reason.

10. I therefore respectfully request the Pre-Trial Chamber to reject the application for disqualification filed by the defense lawyers of the charged person, Nuon Chea.

Done in Phnom Penh on 01 February, 2008

Pre-Trial Chamber Judge

Ney Thol

គណបក្សប្រជាជនកម្ពុជា
គណៈកម្មាធិការកណ្តាល



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អព្យាក្រឹត និង វឌ្ឍនភាពសង្គម

លេខ 5268 សស.គក

ភ្នំពេញ ថ្ងៃទី ០៤ ខែ ០២ ឆ្នាំ ២០០៨ CERTIFIED COPY/COPIÉ CERTIFIÉE CONFORME ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification): ០៤ ០២ ២០០៨ មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: <u>CHEA Kosal</u>

សេចក្តីសម្រេច

ស្តីពីការយល់ព្រមអោយ ឯកឧត្តម នឿយ ថុល ឈប់ពីតួនាទីជាសមាជិកគណៈកម្មាធិការកណ្តាល

- យោង :**
- សេចក្តីសម្រេចរបស់មហាសន្និបាតវិសាមញ្ញតំណាងទូទាំងប្រទេសរបស់គណបក្សប្រជាជនកម្ពុជា នាថ្ងៃទី ២៣ ខែវិច្ឆិកា ឆ្នាំ២០០៥
 - លិខិតលាយបំបែក ឯកឧត្តម នឿយ ថុល ចុះថ្ងៃទី ២៥ ខែកក្កដា ឆ្នាំ២០០៦

គណៈអចិន្ត្រៃយ៍គណៈកម្មាធិការកណ្តាល សម្រេច :

ប្រការ ១: យល់ព្រមអោយឯកឧត្តម **នឿយ ថុល** ឈប់ពីតួនាទីជាសមាជិកគណៈកម្មាធិការកណ្តាលនៃគណបក្សប្រជាជនកម្ពុជាព្រោះជាប់បំពេញតួនាទីជាចៅក្រមនៃអង្គជំនុំជម្រះវិសាមញ្ញ ក្នុងតុលាការកម្ពុជា ។

ប្រការ ២: ខុទ្ទកាល័យគណៈកម្មាធិការកណ្តាល គណៈចាត់តាំងគណៈកម្មាធិការកណ្តាល និង **ឯកឧត្តម នឿយ ថុល** ត្រូវប្រតិបត្តិតាមសេចក្តីសម្រេចនេះ ។



ចំលងដើម ឯកសារដើម ដូចប្រការ ORIGINAL DOCUMENT/DOCUMENT ORIGINAL ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ០៤ ០២ ២០០៨ ម៉ោង (Time/Heure): 15 - 45 មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: <u>SANN RADA</u>

ជា ស៊ុយ



L. Kumtha

ព្រះរាជក្រឹត្យ

នស/រកត/០៨០៦/២១៤

យើង

**ព្រះករុណាព្រះបាទសម្តេចព្រះបរមនាថ នរោត្តម សីហមុនី
សមានភូមិជាតិសាសនា រក្សតន្ត្រីយា ខេមរារដ្ឋរាស្ត្រ ពុទ្ធិន្ទ្រាធរាមហាក្សត្រ
ខេមរាចនា សមូហោភាស កម្ពុជឯករាជ្យរណសន្តិ សុតមន្ទលា សិរីវិបុលា
ខេមរាស្រីពិរាស្ត្រ ព្រះចៅក្រុងកម្ពុជាធិបតី**

- បានទ្រង់យល់រដ្ឋធម្មនុញ្ញ នៃព្រះរាជាណាចក្រកម្ពុជា
- បានទ្រង់យល់ព្រះរាជក្រឹត្យលេខ នស . រកត . ០៧០៤ . ១២៤ ចុះថ្ងៃទី ១៥ ខែ កក្កដា ឆ្នាំ ២០០៤ ស្តីពីការរៀបចំរាជរដ្ឋាភិបាល នៃព្រះរាជាណាចក្រកម្ពុជា
- បានទ្រង់យល់ព្រះរាជក្រមលេខ ០២ / នស / ៩៤ ចុះថ្ងៃទី ២០ ខែ កក្កដា ឆ្នាំ ១៩៩៤ ដែលប្រកាសអោយប្រើច្បាប់ ស្តីពីការរៀបចំ និងការប្រព្រឹត្តទៅនៃគណៈរដ្ឋមន្ត្រី
- បានទ្រង់យល់ព្រះរាជក្រមលេខ ០៩ នស.៩៤ ចុះថ្ងៃទី ២២ ខែ ធ្នូ ឆ្នាំ ១៩៩៤ ដែលប្រកាសអោយប្រើច្បាប់ ស្តីពីការរៀបចំ និង ការប្រព្រឹត្តទៅ នៃអង្គមន្ត្រីក្រសួងនៃអង្គចៅក្រម
- បានទ្រង់យល់ ក្រឹត្យលេខ ០៦ ក្រ ចុះថ្ងៃទី ០៨ ខែ កុម្ភៈ ឆ្នាំ ១៩៩៣ ដែលប្រកាសអោយប្រើច្បាប់ ស្តីពីការចាត់តាំង និងសកម្មភាពរបស់សាលាជំរឿននៃរដ្ឋកម្ពុជា
- បានទ្រង់យល់ព្រះរាជក្រមលេខ នស/រកម/០៨០១/១២ ចុះថ្ងៃទី ១០ ខែ សីហា ឆ្នាំ ២០០១ ដែលប្រកាសឱ្យប្រើច្បាប់ស្តីពីការបង្កើតឱ្យមានអង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា ដើម្បីកាត់សេចក្តីឧក្រិដ្ឋកម្ម ដែលប្រព្រឹត្តឡើងនៅក្នុងរយៈកាលនៃកម្ពុជាប្រជាធិបតេយ្យ
- បានទ្រង់យល់ព្រះរាជក្រមលេខ នស/រកម/២០០៤/០០៤ ចុះថ្ងៃទី ១៩ ខែ តុលា ឆ្នាំ ២០០៤ ដែលប្រកាសឱ្យប្រើច្បាប់ស្តីពីការអនុម័តយល់ព្រមលើកិច្ចព្រមព្រៀងរវាងអង្គការសហប្រជាជាតិ និងរាជរដ្ឋាភិបាលកម្ពុជា ទាក់ទងនឹងការកាត់សេចក្តីនៅក្រោមច្បាប់កម្ពុជា នូវឧក្រិដ្ឋកម្មដែលប្រព្រឹត្តឡើងក្នុងរយៈកាលនៃកម្ពុជាប្រជាធិបតេយ្យ
- បានទ្រង់យល់ព្រះរាជក្រមលេខ នស/រកម/១០០៤/០០៦ ចុះថ្ងៃទី ២៧ ខែ តុលា ឆ្នាំ ២០០៤ ដែលប្រកាសឱ្យច្បាប់ស្តីពីការបង្កើតឱ្យមានសាលាកាត់សេចក្តីឧក្រិដ្ឋកម្ម ដែលប្រព្រឹត្តឡើងនៅក្នុងរយៈកាលនៃកម្ពុជាប្រជាធិបតេយ្យ
- បានទ្រង់យល់សេចក្តីក្រាបបង្គំទូលថ្វាយរបស់រដ្ឋមន្ត្រីក្រសួងយុត្តិធម៌ ដែលបានការពរពាច ពីអង្គមន្ត្រីក្រសួងនៃអង្គចៅក្រម គោលនិយមប្រជុំថ្ងៃទី ០៤ ខែ ឧសភា ឆ្នាំ ២០០៦

ត្រាស់បង្គាប់

មាត្រា ១ : ត្រូវបានផែនតាំងសមាសភាព ចៅក្រមសាលាដំបូង តុលាការកំពូល សហចៅក្រមស៊ើបអង្កេត សហព្រះរាជអាជ្ញា និងអង្គបុរេជំនុំជម្រះ នៃអង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា ដើម្បីកាត់សេចក្តីឧក្រិដ្ឋកម្ម ដែលប្រព្រឹត្តឡើងនៅក្នុងរយៈកាលនៃកម្ពុជាប្រជាធិបតេយ្យ ដូចមានក្រោម :

១. ចៅក្រមសាលាដំបូង

- លោក ជិន ធីន ជាចៅក្រម
- លោក ធុ បណ្ឌិត ជាចៅក្រម
- លោក យ៉ា សុខ ជាចៅក្រម
- M^{me} Silvia CARTWRIGHT (New-Zealand) ជាចៅក្រម
- M^{ri} Jean-Marc LAVERGNE (France) ជាចៅក្រម
- លោក យូ ឡាន ជាចៅក្រមបំរុង
- M^{me} Claudia FENZ (Autriche) ជាចៅក្រមបំរុង

២. តុលាករកំពូល

- ឯកឧត្តម គង់ ស្រីច ជាចៅក្រម
- លោក សោង សិរិមុនី ជាចៅក្រម
- លោក សុខ វិទ្យុ ជាចៅក្រម
- លោក យ៉ា ណារិន ជាចៅក្រម
- M^{ri} MOTOO NOGUCHI (Japan) ជាចៅក្រម
- M^{me} Agnieszka KLONOWIECKA-MILART (Pologne) ជាចៅក្រម
- M^{ri} Chandra Nihal Jayasinghe (Sri-Lanka) ជាចៅក្រម
- លោក ម៉ុច មុន្នីវិហារ ជាចៅក្រមបំរុង
- M^{ri} Martin KAROPKIN (USA) ជាចៅក្រមបំរុង

៣. សហចៅក្រមស៊ើបអង្កេត

- លោក យូ ម៉ិទន្ស៊ុន ជាសហចៅក្រមស៊ើបអង្កេត
- M^{ri} Marcel LEMONDE (France) ជាសហចៅក្រមស៊ើបអង្កេត
- លោក ថេន អុយ ជាសហចៅក្រមស៊ើបអង្កេតបំរុង

៤. សហព្រះរាជអាជ្ញា

- លោកស្រី ង៉ា លាវ ជាសហព្រះរាជអាជ្ញា
- M^{ri} Robert PETIT (Canada) ជាសហព្រះរាជអាជ្ញា
- ឯកឧត្តម ជូន ស៊ុនឡាង ជាសហព្រះរាជអាជ្ញាបំរុង
- M^{ri} Paul COFFEY (USA) ជាសហព្រះរាជអាជ្ញាបំរុង

៥. អង្គបុរេជំនុំជម្រះ

- ឯកឧត្តម ប្រាក់ ធីតសារ ជាចៅក្រម
- ឯកឧត្តម ជ័យ តុល ជាចៅក្រម
- លោក ឆុន តុនី ជាចៅក្រម
- M^r Rowan DOWNING (Australia) ជាចៅក្រម
- M^{me} Katinka LAHUIS (Netherlands) ជាចៅក្រម
- លោក ម៉ែង ពៅឡូសារី ជាចៅក្រមបម្រុង

មាត្រា ២៦ : បទប្បញ្ញត្តិទាំងឡាយណា ដែលមានខ្លឹមសារផ្ទុយនឹងព្រះរាជក្រឹត្យនេះ ត្រូវចាត់ទុកជាមិនករណី ។

មាត្រា ៣ : ឧត្តមក្រុមប្រឹក្សានៃសង្កេតចៅក្រម និងនាយករដ្ឋមន្ត្រី នៃរាជរដ្ឋាភិបាលកម្ពុជា ត្រូវអនុវត្តអោយបានសម្រេចតាមព្រះរាជក្រឹត្យនេះ ។

មាត្រា ៤ : ព្រះរាជក្រឹត្យនេះ ចូលជាធរមានចាប់ពីថ្ងៃចេញព្រះហស្តលេខនេះតទៅ ។

ពល.០២០៥.២២៤

ន សីហមុនី

នរោត្តម សីហមុនី

រាជធានីភ្នំពេញ, ថ្ងៃទី ៧ ខែ ឧសភា ឆ្នាំ ២០០៦