



អង្គបុរេជំនុំជម្រះ

PRE-TRIAL CHAMBER
CHAMBRE PRELIMINAIRE

Criminal Case File N° 002/19-09-2007-ECCC/OCIJ (PTC03)

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

Date: 03 July 2008

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):03/ JULY / 2008.....
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WRITTEN VERSION OF ORAL DECISION OF 1 JULY 2008 ON THE CIVIL PARTY'S
REQUEST TO ADDRESS THE COURT IN PERSON

Co-Prosecutors

CHEA Leang
Robert PETIT
YET Chakriya
William SMITH

ឯកសារបញ្ជាក់តាមប្រព័ន្ធគ្រប់គ្រងឯកសារ
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ថ្ងៃ ខែ ឆ្នាំ នៃការបញ្ជាក់ (Certified Date/Date de certification):04/ JULY / 2008.....
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier:.....C.A.FRY.....

Charged Person

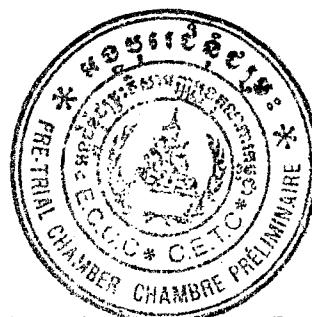
IENG Sary

Lawyers for the Civil Parties

HONG Kim Suon
LOR Chunthy
NY Chandy
KONG Pisey
YONG Phanith
Silke STUDZINSKY

Co-Lawyers for the Defence

ANG Udom
Michael G. KARNAVAS



1. On 1 July 2008, the Pre-Trial Chamber resumed the hearing of the Charged Person's Appeal against the Provisional Detention Order of the Co-Investigating Judges.
2. During the hearing, the international Civil Party co-lawyer requested, on behalf of one of the Civil Parties, permission for that Civil Party to address the Court in person. The Pre-Trial Chamber was advised that the Civil Party concerned had dismissed her lawyer.
3. The Pre-Trial Chamber finds that the Civil Party is not permitted to address the Court in person. The system of the Internal Rules is clear. Specific provisions are contained in the Internal Rules for the pre-trial phase regarding the Civil Parties and their lawyers. Internal Rule 77(10) prescribes that only lawyers for civil parties have the right to make brief oral observations during pre-trial appeals.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY DECIDES:

That the request of the Civil Party to address the Court in person is denied.

Given orally during the hearing on 1 July 2008.

Phnom Penh, 03 July 2008

President, Pre-Trial Chamber



PRAK KIMSAN

- Judge Rowan Downing appends a Dissenting Opinion.



Dissenting Opinion of Judge Rowan Downing

1. One of the Civil Parties has requested to be heard in person before the Pre-Trial Chamber on the Appeal by Ieng Sary. There appears to be a conflict between Internal Rule 23 giving the right of the Civil Party to appear and Internal Rule 77(10) restricting observations being made before the Pre-Trial Chamber by a Civil Party to "the lawyers for the parties".
2. It is apparent that Internal Rule 23 gives a general right of appearance which is qualified in the specific instance of appeals and applications to the Pre-Trial Chamber as provided in Internal Rule 77(10).
3. We are advised that the Civil Party has dismissed her lawyer and thus no longer has representation before the Pre-Trial Chamber. I would be prepared to provide the right of this Civil Party, in this particular instance, to appear for herself and address the Court on the jurisdictional issues before the Chambers, notwithstanding the restrictions found in Internal Rule 77(10). I do this on the basis that one possible effect of a decision in this matter could be the extinguishment of her right to bring a claim against the Charged Person under Internal Rule 23(1)(b).
4. As a consequence, in my view, it would be unfair, pursuant to the fundamental principles of Internal Rule 21(1)(a), not to permit this Civil Party to address the Court.

Given orally during the hearing on 1 July 2008.

Phnom Penh, 03 July 2008

Judge Rowan Downing

