

F46/8

Theoun PHAN

From: Theoun PHAN
Sent: 02 September 2019 9:44 AM
To: Doreen CHEN
Cc: Mao Sea; Leang Chea; Bunkheang Seng; Chorvoing SONG; William Smith; Brenda Hollis; Srim Kong; Nihal Jayasinghe; Sereyvuth Som; Florence MUMBA; Monichariya Mong; Maureen Harding CLARK; Narin Ya; Vincent De Wilde d'Estmael; Travis Michael FARR; Helen Susanne WORSNOP; Ruth Mary HACKLER; Elizabeth ELMORE; Coman Kenny; Nisha PATEL; Rattanak Srea; Sambath Pich; Ang PICH; Lauren TIPTON; Sam Onn KONG; antaguisse@yahoo.fr; Socheata Seng; Marie CAPOTORTO; Arun Son; Sovanna LIV; Xiaoyang NIE; Marina HAKKOU; Socheata DY; Gaelle Sylvie BUCHET; Stephanie ERIAN; Khady BA; Milan Jovancevic; Birhane Wossen RETA; Mark PETERS; Rada Sann; Sotheavy Sour
Subject: RE: Imminent termination

Dear Co-Lawyers,

The Supreme Court Chamber is in receipt of your motion to "issue an urgent order to the ECCC Administration to reinstate all members of the NUON Chea Defence Team immediately until the Supreme Court Chamber determines otherwise" (F46/3), and email dated 30 August 2019.

The Chamber recalls that it terminated further proceedings against NUON Chea on 13 August 2019 following his death on 4 August 2019 (F46/3). The Defense Support Section Chief informed the Chamber on 15 August 2019 that "Court funded legal aid for representation before the Extraordinary Chambers is provided for eligible indigent persons only. Eligibility for financial aid ceases with the demise of such persons. Please be informed that on 9 August 2019, DSS notified NUON Chea's Co-Lawyers and legal consultants of the decision to terminate Court funded legal aid. The contracts of the Co-Lawyers will lapse on 31 August 2019. The contracts of legal consultants will be terminated effective 23 August 2019."

The Chamber considers that the administration of the legal aid scheme before the Extraordinary Chamber falls within the autonomous ambit of the Defense Support Section under Article 11 of the Internal Rules. In the circumstances of the present case, the Chamber has no jurisdiction to intervene in the dispensation of public moneys following the death of a person otherwise eligible for legal aid under the Internal Rules and Legal Assistance Scheme.

Nevertheless, the Chamber remains seized of the Urgent Request concerning the Impact on Appeal Proceedings of NUON Chea's Death Prior to the Appeal Judgement (F46/2). In these circumstances, the Chamber considers it appropriate to maintain the Co-Lawyers' access to the ECCC email system, Zylab and notification until further notice, and so directs.

This constitutes the Supreme Court Chamber's response to F46/4.

Regards,

Theoun,
Greffier of the Supreme Court Chamber

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ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):	
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du dossier: SANN RADA	

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Subject: Imminent termination and pending requests
Importance: High

Dear Supreme Court Chamber, dear parties,

The Co-Lawyers for Nuon Chea (the "Defence") write to advise that as of tomorrow, 31 August 2019, the termination of our contracts by the Office of Administration takes effect. Similarly, our team's termination was to take effect as of last Friday, 23 August 2019.

Despite its pending requests (e.g., F46/2, F46/4) before this Chamber, the Defence anticipates that all members of its team will shortly be removed from all relevant systems, including e-mail, the case file notification, and Zylab.

As indicated in its email to this Chamber on 19 August 2019, the Defence requests that the Chamber urgently direct the Office of Administration to retain the Nuon Chea Defence Team at least on a budget that guarantees the minimum functions of the team while the Chamber decides on its pending request F46/2. This allows the Defence to engage with the Chamber regarding the pending request (F46/2).

On 29 August 2019, the Co-Prosecutors filed their response (F46/2/4) to the Defence's request (F46/2) in English, with Khmer translation to follow. The Defence intends to request for leave to reply to the Co-Prosecutors' response once the Khmer translation is notified. However, the Defence will obviously not be able to do so if indeed it is terminated as of 31 August 2019.

The Defence, therefore, once again requests that the Chamber issue an urgent order to retain the Nuon Chea Defence Team while it decides on the Defence's pending request F46/2.

Yours sincerely,
Son Arun, Liv Sovanna, and Doreen Chen
The Co-Lawyers for Nuon Chea

ជូនចំពោះលោក/លោកស្រី ចៅក្រមនៃអង្គជំនុំជម្រះតុលាការកំពូល ជូនចំពោះភាគី

សហមេធាវីការពារព្រឹត្តិ នួន ជា ("មេធាវីការពារព្រឹត្តិ") សរសេរសារនេះ ដើម្បីជម្រាបជូនថា ត្រឹមថ្ងៃស្អែក ទី៣១ ខែសីហា ឆ្នាំ ២០១៩ ការបញ្ចប់កិច្ចសន្យាការងាររបស់យើងខ្ញុំដោយការិយាល័យរដ្ឋបាល នឹងដល់កំណត់ហើយ។ ស្រដៀងគ្នានេះដែរ ការបញ្ចប់របស់ក្រុមយើងខ្ញុំ ក៏បានបញ្ចប់កាលពីថ្ងៃសុក្រសប្តាហ៍មុន ថ្ងៃទី២៣ ខែសីហា ឆ្នាំ២០១៩។

ទោះបីជា សំណើរបស់ខ្លួនពុំទាន់ត្រូវបានសម្រេច (ឧទាហរណ៍ សំណើ F46/2, F46/4) នៅចំពោះមុខ អង្គជំនុំជម្រះនេះ មេធាវីការពារព្រឹត្តិគិតទុកជាមុនថា សមាជិកទាំងអស់ក្នុងក្រុមមេធាវីការពារព្រឹត្តិ នឹងត្រូវដកចេញពីប្រព័ន្ធដែលពាក់ព័ន្ធ ទាំងអស់ក្នុងពេលឆាប់ៗនេះ រួមទាំងប្រព័ន្ធអ៊ីមែល ការជូនដំណឹងពីសំណុំរឿង និង Zylab។

ដូចដែលបានបង្ហាញជូនអង្គជំនុំជម្រះតាមរយៈអ៊ីមែលរបស់ខ្លួន ទៅអង្គជំនុំជម្រះនេះ កាលពីថ្ងៃទី១៩ ខែសីហា ឆ្នាំ២០១៩ មេធាវីការពារព្រឹត្តិស្នើសុំឲ្យអង្គជំនុំជម្រះ ណែនាំជាបន្ទាន់ទៅការិយាល័យរដ្ឋបាល ដើម្បីរក្សាទុកក្រុម មេធាវីការពារព្រឹត្តិ យ៉ាងហោចនៅក្នុងថវិកាដែលអាចធានាមុខងារអប្បបរមានៃក្រុមមេធាវី ខណៈដែលអង្គជំនុំជម្រះ សម្រេចលើសំណើ F46/2 ដែល

ពុំទាន់ត្រូវបានសម្រេច។ ការធ្វើរបៀបនេះ គឺអនុញ្ញាតឲ្យក្រុមមេធាវីការពារក្តី ភ្ជាប់ ទំនាក់ទំនងជាមួយ អង្គជំនុំជម្រះ ទាក់ទង នឹងសំណើពុំទាន់បានសម្រេច (F46/2)។

នៅថ្ងៃទី២៩ ខែសីហា ឆ្នាំ ២០១៩ សហព្រះរាជអាជ្ញា បានដាក់ចម្លើយតបរបស់ខ្លួន (F46/2/4) ចំពោះ សំណើរបស់មេធាវី ការពារក្តី (F46/2) ជាភាសាអង់គ្លេស ដោយដាក់ការបកប្រែជាភាសាខ្មែរនៅតាមក្រោយ។ មេធាវី ការពារក្តី មានបំណងស្នើសុំ ការទុកពេលឲ្យឆ្លើយតបទៅនឹងចម្លើយតបរបស់សហព្រះរាជអាជ្ញា នៅពេលដែលការ បកប្រែជាភាសាខ្មែរត្រូវបានជូនដំណឹង។ ប៉ុន្តែ មេធាវីការពារក្តី នឹងមិនអាចធ្វើដូច្នោះបានទេ ប្រសិនបើ ការពិត គឺខ្លួន ត្រូវបានបញ្ចប់ នៅត្រឹមថ្ងៃទី៣១ ខែសីហា ឆ្នាំ ២០១៩។

ហេតុដូច្នោះ មេធាវីការពារក្តីស្នើសុំជាថ្មីម្តងទៀតថា អង្គជំនុំជម្រះចេញសេចក្តីបង្គាប់បន្ទាន់ ដើម្បីរក្សាក្រុម មេធាវីការពារក្តី នួន ជា ខណៈពេលដែលអង្គជំនុំជម្រះសម្រេច លើសំណើរបស់មេធាវីការពារក្តី (F46/2) ដែលពុំ ទាន់បានសម្រេច។

ដោយសេចក្តីគោរព,
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សហមេធាវីការពារក្តី នួន ជា

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