



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

អង្គជំនុំជម្រះតុលាការកំពូល
Supreme Court Chamber
Chambre de la Cour suprême

សំណុំរឿងលេខ: លេខ ០០១/១៨ កក្កដា ២០០៧ អ.វ.ត.ក/អ.ជ.ត.ក
Case File/Dossier N°. 001/18-07-2007-ECCC/SC

Before: Judge KONG Srim, President
Judge Agnieszka KLONOWIECKA-MILART
Judge SOM Sereyvuth
Judge Chandra Nihal JAYASINGHE
Judge MONG Monichariya
Judge Florence Ndepele MUMBA
Judge YA Narin

Date: 31 October 2012
Language(s): English/Khmer
Classification: PUBLIC

ឯកសារដើម
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DECISION TO RE-CLASSIFY DOCUMENTS ON THE CASE FILE

Co-Prosecutors
CHEA Leang
Andrew CAYLEY

Accused
KAING Guek Eav alias
'DUCH'

Lawyers for the Accused
KAR Savuth
KANG Ritheary

THE SUPREME COURT CHAMBER of the Extraordinary Chambers in the Courts of Cambodia issues this decision in accordance with Article 12 of the Practice Direction on Classification and Management of Case-Related Information (“Classification PD”). The Supreme Court, as the last judicial office seized of Case 001, is competent to review all documents on the case file for purposes of re-classification.

1. On 11 June 2012, the President of the Supreme Court invited comments from all parties and concerned ECCC units on a set of proposed guidelines for re-classification of the Case 001 case file.¹ Taking into account relevant submissions and the results of necessary consultation, this Chamber, on 26 July 2012, issued the “Decision on Guidelines for Reclassification of Documents on Case File” (“Decision on Guidelines”).² The Supreme Court considered that a document, or part thereof,³ would not be re-classified where the reasons for prior classification subsist,⁴ it is protected by copyright law, or it is subject to an agreement that prohibits dissemination absent consent of the source.⁵
2. Specifically, this Chamber determined that documents currently classified ‘confidential’, or parts thereof, including, *inter alia*, contact details of victims who are not also civil parties, records of proceedings held *in camera*, and confidential documents included in other case files shall remain ‘confidential’, unless the reasons for maintaining confidentiality are no longer valid.⁶ Further, documents currently classified as ‘strictly confidential’, or parts thereof, including, *inter alia*, requests for protective measures and associated documents; documents and information subject to protective measures; and information concerning the health of a Suspect, Charged Person or Accused shall remain ‘strictly confidential’, unless the reasons for such classification are no longer valid.⁷ All other documents shall be de-classified,⁸ subject to any necessary redactions.⁹
3. On 6 September 2012, the President of the Supreme Court Chamber ordered the Record and Archives Unit to process and notify all documents immediately re-classified as ‘public’.¹⁰ Accordingly, the ECCC Records and Archives Unit processed and notified all documents re-

¹ F30, Interoffice Memorandum, Subject: “Review of Confidential and Strictly Confidential Documents on Case 001 Case File”, 11 June 2012.

² F30/2, Decision on Guidelines for Reclassification of Documents on Case File, 26 July 2012.

³ Decision on Guidelines, para. 7(d) (“If a document consists of a portion which ought to be public and a portion which ought to be classified as confidential or strictly confidential, Article 3.3 of the [Classification PD] applies”).

⁴ Decision on Guidelines, paras. 7(b)-(c).

⁵ Decision on Guidelines, para. 7(e) referring to Classification PD, art. 12.3.

⁶ Decision on Guidelines, para. 7(b).

⁷ Decision on Guidelines, para. 7(c).

⁸ Decision on Guidelines, para. 7(a).

⁹ Decision on Guidelines, para. 7(d).

¹⁰ F30/3 (Strictly Confidential), Order of the President of the Supreme Court, 6 September 2012 (“President’s Order”), para. 3, Annex.

classified as 'public'.¹¹ Other documents were identified in the President's Order for redaction prior to re-classification.¹² The redaction of a number of documents¹³ and the identification of further documents that may be re-classified without redaction¹⁴ now render such documents ready for re-classification as 'public'. Any remaining documents currently undergoing appropriate redaction,¹⁵ or identified for declassification in the future, will be re-classified forthwith.

4. This Chamber considers that it is also in the interests of transparency to release an index¹⁶ of those documents already re-classified by the President's Order,¹⁷ as well as those re-classified by the instant decision.¹⁸

DISPOSITION

FOR THE FOREGOING REASONS, THE SUPREME COURT CHAMBER:

ORDERS that the redacted versions of the documents identified in Annex A of this Decision be re-classified as 'public'; and

ORDERS that the documents identified in Annex B of this Decision be re-classified as 'public'.

Phnom Penh, 31 October, 2012

President of the Supreme Court Chamber



¹¹ The Supreme Court notes that all such documents are now identified by a stamp, applied by the Record and Archives Unit, reading "DECLASSIFIED TO PUBLIC 6 SEPTEMBER 2012". See Annex C.

¹² President's Order, para. 3(iii).

¹³ See Annex A.

¹⁴ See Annex B.

¹⁵ This Chamber considers, however, that once one version of a document is re-classified, any identical version in another language is subject to the same classification already ordered.

¹⁶ See Annex C.

¹⁷ President's Order, para. 4 (noting that a list of all documents re-classified during the review of the Case 001 case file should be published).

¹⁸ See Annex A.