

អស្គីខំមួះនិសាមញ្ញត្ច១តុលាគាកេម្ពបា

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

វាមាសារខ្មើន

ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

មន្ត្រីទទួលបន្ទូកសំណុំជឿb /Case File Officer/L'agent chargé

du dossier: UCH ALUM

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):

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ម្រិះរាស្ងាឈាខ ម៉ែងត់ ស ប៉ាតិ សាសលា ក្រុះមហាតុក្រុត

Kingdom of Cambodia Nation Religion King Royaume du Cambodge Nation Religion Roi

អតិទូទុំវិរិតិះដំលាងអង្គបំល

Supreme Court Chamber Chambre de la Cour suprême

សំណុំរឿងលេខ: លេខ ០០១/១៨ កក្កុដា ២០០៧ អ.វ.ត.ក/អ.ជ.ត.ក

Case File/Dossier No. 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

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. 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"). The Supreme Court considered that a document, or part thereof, would not be re-classified where the reasons for prior classification subsist, it is protected by copyright law, or it is subject to an agreement that prohibits dissemination absent consent of the source.
- 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, 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'. 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.

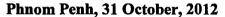
4. This Chamber considers that it is also in the interests of transparency to release an index 16 of those documents already re-classified by the President's Order, 17 as well as those re-classified by the instant decision. 18

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 reclassified as 'public'; and

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





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.