



RE: Reasons for the Special Panel's decision on disqualification of judges

Doreen CHEN Anne-Marie UNAKRT
BURNS/UNAKRT@UNAKRT, Suy-Hong Lim

18/12/2014 09:20 AM

Dear Anne-Marie,

The Co-Lawyers for Nuon Chea (the "Defence") thank the Special Panel for its response.

By way of clarification, the Defence's initial request was for the reasoned decision and dissenting opinion to be notified to the parties – that is, all parties – and not to the Defence alone. In addition, the Defence accepts the general importance of decisions and filings being issued in as many of the Tribunal's official languages as possible. The Defence sought an exception in this circumstance primarily because the reasoned decision, and especially the dissenting opinion, are of particular importance to Nuon Chea's appeal against the judgment in Case 002/01. The Defence also considered that issuance of English-language courtesy copies of the majority decision and dissenting opinion would be permissible in this instance in view of:

- the English-language capabilities of all parties and Chambers;
- the Special Panel's previous decisions permitting the OCP to file its response to the Defence's disqualification application in English only and for the Defence to reply to the OCP's response also in English only (Doc. No. E314/11); and,
- most importantly, the Trial Chamber's practice of circulating English-language courtesy copies of its decisions to the parties in advance of other language versions. (In this regard, see, for example, the attached e-mails.)

Given the above, and especially the importance of the majority decision and dissenting opinion for Nuon Chea's forthcoming appeal, the Defence requests that the Special Panel reconsider its decision.

Again, the Defence thanks the Special Panel for its consideration and response.

Best regards,

Doreen

Doreen Chen

Senior Legal Consultant

Nuon Chea Defence Team

Extraordinary Chambers in the Courts of Cambodia

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-----Original Message-----

From: Anne-Marie UNAKRT BURNS [mailto:burnsa@un.org]

Sent: Wednesday, December 17, 2014 2:59 PM

To: Doreen CHEN

Cc:

Dear Doreen

I have discussed your email with the judges of the Special Panel, including Judge Downing. They have asked me to inform you as follows.

The judges note your request to be provided with the reasoning of the majority and/or dissenting opinion on the basis that you wish to refer to them in your appeal brief.

They reject your request to issue the reasoning in English with other language versions to follow. It is not appropriate for the reasoning to be provided in one language to one of the parties alone. It is required to be in the three languages of the Court. Therefore, as previously stated in the Special Panel's decision of 14 November 2014, the fully reasoned decision will be issued in Khmer, English and French, as soon as it is available. Based on the current status of translations and review, it is unlikely that this will be before 29 December 2014.

Kind regards

Anne-Marie

Anne-Marie Burns

Legal Officer/Juriste

Pre-Trial Chamber/Chambre préliminaire

Extraordinary Chambers in the Courts of Cambodia/Chambres extraordinaires au sein des tribunaux cambodgien

----- Forwarded by Anne-Marie UNAKRT BURNS/UNAKRT on 17/12/2014 02:56 PM

From: Robynne CROFT/UNAKRT

To: Anne-Marie UNAKRT BURNS/UNAKRT@UNAKRT,

Date: 16/12/2014 10:45 AM

Subject: Fw: Reasons for the Special Panel's decision on
disqualification of judges

----- Forwarded by Robynne CROFT/UNAKRT on 16/12/2014 10:45 AM -----

From: Roger PHILLIPS/UNAKRT

To: Robynne CROFT/UNAKRT@UNAKRT,
Date: 16/12/2014 10:33 AM
Subject: Fw: Reasons for the Special Panel's decision on
disqualification of judges

FYI

----- Forwarded by Roger PHILLIPS/UNAKRT on 16/12/2014 10:33 AM -----

From: [REDACTED]
To: [REDACTED]
<[REDACTED]>
+
<[REDACTED]>
Cc: [REDACTED]

Date: 16/12/2014 10:22 AM
Subject: Reasons for the Special Panel's decision on disqualification of
judges

Dear Anne-Marie and Suy-Hong,

The Co-Lawyers for Nuon Chea (the "Defence") write in relation to the Special Panel's 14 November 2014 decision regarding the Defence's application to disqualify Judges Nonn, Sokhan, Lavergne, and Ottara from any further proceedings against Nuon Chea (Doc. No. E314/12). In their decision, in which the Special Panel dismissed the Defence's application by majority with Judge Downing dissenting, the Special Panel advised that its fully reasoned decision would be issued "in Khmer, English and French, as soon as it is available".

The Defence intends to refer in detail to the Special Panel's reasoned disqualification decision, and particularly Judge Downing's dissent, in its forthcoming appeal against the trial judgement in Case 002/01. This appeal is due to be filed to the Supreme Court Chamber on 29 December 2014, which is in 10 business days' time. The Defence therefore needs to review the Special Panel's reasons as a matter of utmost urgency.

In light of this situation and in the interests of justice, the Defence requests that in the event that the Special Panel's reasons will not be notified to the parties in all three languages by Friday, 19 December 2014, the reasons should be notified to the parties on that day in English (as a courtesy copy), with other language versions to follow.

The Defence thanks the Special Chamber in advance for its consideration and response.

Best regards,
Doreen

Doreen Chen
Senior Legal Consultant
Nuon Chea Defence Team
Extraordinary Chambers in the Courts of Cambodia National Road 4, Sangkat Chaom Chau, Khan Porsenchey P.O.
Box 71, Phnom Penh, Kingdom of Cambodia



Mobile: +855 78 90 51 53 Advance courtesy copy of memorandum scheduling -Susan Lamb 17-06-13.pdf



Advance courtesy copy, disposition regarding tr-Susan Lamb 17-06-13.pdf



Advance Notification and Courtesy Copy of Trial-Matteo-27-06-13.pdf



Courtesy Copy of Chamber Memo E295_7- Ken- 14-10-13.pdf



Courtesy Copy of Trial Chamber Memorandum, re S-Matteo-03-12-13.pdf



**{In Archive} Advance courtesy copy of memorandum scheduling document
and other remaining hearings in Case 002/01**

Susan Lamb Chea.Leang, Andrew CAYLEY, antaguisse, Arun
Son, a.vercken.cetc, CHAN.Dararasmey, Dale 17/06/2013 01:11 PM
Lysak, diabloir, FERNANDEZ.Eleonor, Marie

This message is being viewed in an archive.

Dear parties,

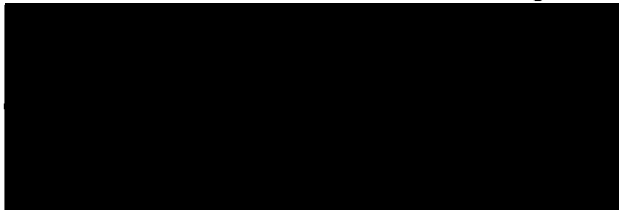
I attach an advance courtesy copy of this memorandum, given that the final document hearing in Case 002/01 - depending on in-court progress today and Wednesday - might possibly commence as early as Thursday of this week. It will be officially filed as soon as it is available in translation.

Best regards,
Susan



20130617 FINAL document and other hearings in Case 002_01 and response to E288.1 and E263_ENG.pdf

Susan Lamb
Senior Legal Officer, Trial Chamber, rm 418A
Extraordinary Chambers in the Courts of Cambodia/
United Nations Assistance to the Khmer Rouge Trials





{In Archive} Advance courtesy copy, disposition regarding translation

Susan Lamb Chea.Leang, Andrew CAYLEY, antaguisse, Arun
Son, a.vercken.cetc, CHAN.Dararasmey, Dale 17/06/2013 02:17 PM
Lysak, diablénor, FERNANDEZ.Eleonor, Marie

This message is being viewed in an archive.

Dear parties,

Also to assist with final preparations as the trial concludes, attached here is a further advance courtesy copy of memorandum following discussion at the TMM on translation.

Best regards,
Susan



20130617 FINAL translation deadlines in Case 002_01_ENG.pdf

Susan Lamb
Senior Legal Officer, Trial Chamber, rm 418A
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**{In Archive} Advance Notification and Courtesy Copy of Trial Chamber
Disposition of Request E 292/2**

Matteo Crippa Chea.Leang, Andrew CAYLEY, antaguise,
Arun Son, a.vercken.cetc, CHAN.Dararasmey, 27/06/2013 04:21 PM
Dale Lysak, diablénor, FERNANDEZ.Eleonor,
Kenneth William ROBERTS, Faiza ZOUAKRI, Roger PHILLIPS,
Miriam MAFESSANTI

This message is being viewed in an archive.

Dear Colleagues,

the Trial Chamber is seized of a request from the NUON Chea Defence that the Chamber order that TCW-689, TCW-505, TCW-386 and the driver from E186.R, not be given or shown any information, including their prior statements, before testifying before the Chamber (E292/2).

Given the recent changes in the scheduling for the upcoming hearings, the Judges of the Trial Chamber authorized me to circulate this advance courtesy copy of the Chamber's disposition of this request. The request is denied.

This memorandum will be placed in the case file as soon as possible.

Regards,

Matteo CRIPPA
Legal Officer - Trial Chamber
UNAKRT - ECCC



20130627 - Decn on NC Request not to show prior statements to final witnesses_FINAL_EN.pdf

**{In Archive} Chamber Memo on E295/7****Kenneth William ROBERTS**Chea.Leang, antaguisse, Arun
Son, a.vercken.cetc,
CHAN.Dararasmey, Dale Lysak,

14/10/2013 01:35 PM

Matteo Crippa

This message is being viewed in an archive.

Dear Parties,

Please find attached a courtesy copy of the Chamber Memo on the KHIEU Samphan request for a declaration of inadmissibility of the Co-Prosecutors' Closing Brief (E295/7).

Best regards,

Ken



TC Memo on KS request to Exclude OCP Brief (E295_7_2) (Courtesy copy).pdf



{In Archive} Courtesy Copy of Trial Chamber Memorandum , re Scheduling Memo and Agenda for Trial Management Meeting (11-12 December 2013)

Anta GUISSÉ, arthur vercken, Marie
Matteo Crippa CAPOTORTO, Vincent De Wilde d'Estmael, 03/12/2013 02:18 PM
Victor Koppe, Dale LYSAK, Roger PHILLIPS,
Kenneth William ROBERTS, Lim.Suy-Hong, Sann.Rada, Se.Kolvuthy

This message has been forwarded.

This message is being viewed in an archive.

Dear Parties, Director and Deputy Director of the Office of Administration,

the Judges of the Trial Chamber requested me to forward the attached courtesy copy of a forthcoming Trial Chamber Memorandum containing the final Agenda for the Trial Management Meeting scheduled for 11-12 December 2013. The Memorandum will be filed as soon as possible.

As indicated in the previous Trial Chamber memorandum relevant to the Trial Management Meeting (E301), the final agenda is distributed in advance of the Meeting so as to allow adequate time to prepare.

Regards

Matteo CRIPPA

Legal Officer and Greffier, Trial Chamber
ECCC - UNAKRT
PO Box 71 - Phnom Penh, Cambodia



- 20131203_TMM Scheduling Memo and Agenda_Courtesy Copy for Parties.pdf