

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

Anne-Marie UNAKRT BURNS CHEN.Doreen

18/12/2014 12:32 PM

Arun Son, Victor Koppe, ROSENSWEIG.Joshua, Phalla Prum,
SUON.Visal, LIV.Sovanna, NIE.Xiaoyang, PICH.Ang, antaguisse,
a.vercken.cetc, Seng.Bunkheang, AEO YOUTH, Bou.Chanthan, Dale

Dear Doreen

The judges of the Special Panel have instructed me to respond to you as follows.

The parties are already aware that the disqualification applications were dismissed. The detailed reasoning for that decision, including Judge Downing's dissenting opinion, will be released in Khmer, English and French, as soon as it is available. The judges reject your request for reconsideration. Judge Downing dissented in relation to KHIEU Samphan's application, as well as your client's application. Therefore the reasoning will not be released in English alone.

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



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
National Road 4, Sangkat Chaom Chau, Khan Porsenchey
P.O. Box 71, Phnom Penh, Kingdom of Cambodia

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

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

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

To: Doreen CHEN

Cc: [REDACTED]

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.

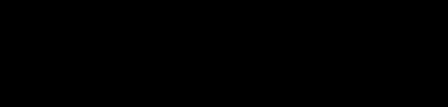
The judges note your request to be provided with the reasoning of the majority and/or dissenting opinion on the basis that you wish to refer to them in your appeal brief.

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 -----

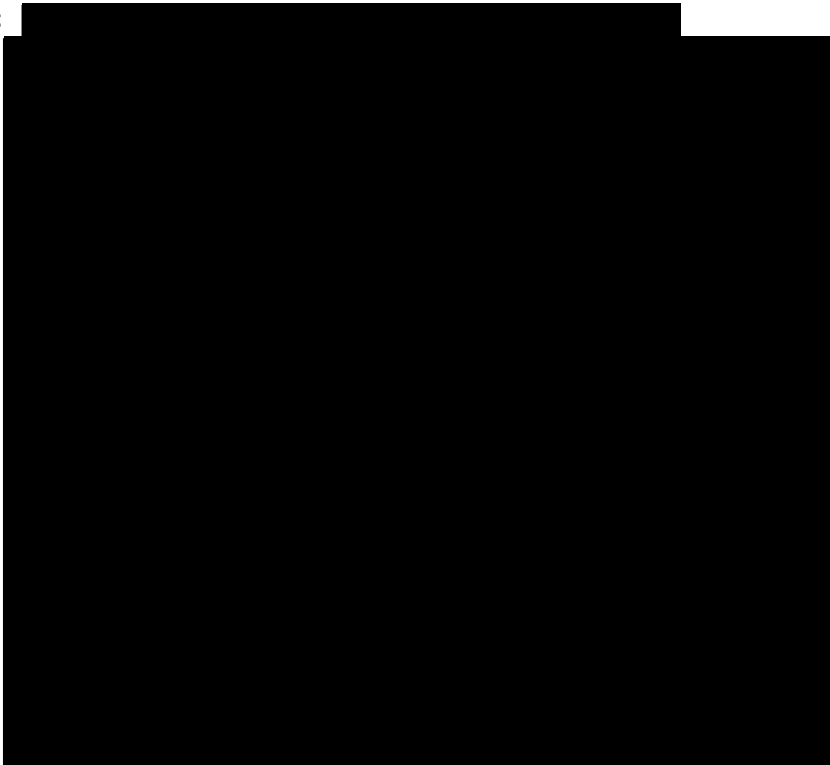
From: Roger PHILLIPS/UNAKRT
To: Robynne CROFT/UNAKRT@UNAKRT,
Date: 16/12/2014 10:33 AM
Subject: Fw: Reasons for the Special Panel's decision on
disqualification of judges

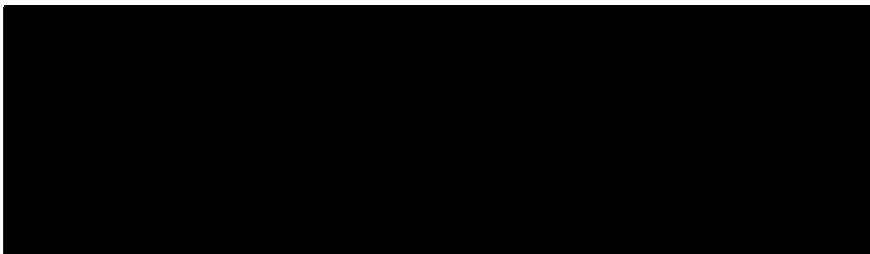
FYI

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

From:
To:

Cc:





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
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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

 PDF

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

 PDF

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