



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

BUREAU DES CO-JUGES D'INSTRUCTION
OFFICE OF THE CO-INVESTIGATING JUDGES

A: IENG Sary Defence Team
TO:

Date: 29 May 2009

PAR:
THROUGH:

DE: **YOU Bunleng**
FROM: **Marcel LEMONDE**
Co-Investigating Judges

OBJET: **Your Request for Information concerning Mr. Stephen Heder**
SUBJECT:

REF: 002/19-09-2007-ECCC-OCIJ/A252

ឯកសារទទួល
DOCUMENT RECEIVED/DOCUMENT REÇU
ថ្ងៃ ខែ ឆ្នាំ (Date of receipt/Date de reception): 01 / 06 / 2009
ម៉ោង (Time/Heure): 15:10
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA

In a request dated 30 January 2009, you sought information concerning Mr. Stephen Heder's "ethical and professional fitness to occupy his current or former position as an investigator in the Office of the Co-Investigating Judges". You state therein that "[t]hrough a confidential source the Defence was provided with documentation which appeared authentic," in which, it is alleged, Mr. Heder submitted a book proposal, specifying that it resulted from 30 years of research on the CPK, notably as an "intelligence officer". You write that "[a]ssuming Investigator Heder made such a book proposal, .. there would be scant reason to doubt its accuracy".

You conclude: that "Given Investigator Heder's nationality, it would appear likely that he was employed by the United States Central Intelligence Agency"; that, in this capacity, he would have taken, or continues to take, instructions from a foreign government; and that there is reason to doubt "his independence and impartiality in the investigation".

Accordingly, you request the provision of any information in the possession of the OCIJ regarding such employment as an intelligence agent, including whether he disclosed such activity to the Office of the Co-Prosecutors or the OCIJ, "so the Defence can determine whether it is in the interest of justice to formally move for his disqualification before the Pre-Trial Chamber pursuant to Rule 34(5)".

We can only repeat, another time, the lack of any legal basis for this type of request.

ឯកសារច្បាប់តាមប្រក្រតីស្របតាមប្លាប់ដើម
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME
ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវបញ្ជាក់ (Certified Date/Date de certification): 01 / 06 / 2009
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA



Indeed, as we have already stated,¹ the ECCC Internal Rules do not provide for a party to request the disqualification of an investigator, but only of a judge, subject to a precise procedure the formalities for which are laid down in Rule 34.

We would, thus, have the right to leave your request without any response. Nevertheless, in order to avoid any ambiguity and to cut short on any erroneous or malicious interpretation, we choose to indicate that we have no knowledge of any information or documentation that might support the allegations in your request in any way at all.

¹ See our Memoranda dated 24 January 2008 (A/121/I) and 26 May 2008 (A121/III).

