

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA
BEFORE THE PRE-TRIAL CHAMBER

Case File No. : 002/19-09-2007-ECCC/OCIJ (PTC 03)
Filed to : Pre-Trial Chamber
Date of Document : 2 July 2008
Party Filing : Civil Party
Language : English
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APPLICATION OF RECONSIDERATION
ON CIVIL PARTY'S RIGHT TO ADDRESS PRE-TRIAL CHAMBER

Filed by:

Civil Party Theary Chan SENG

Distributed to:

Pre-Trial Chamber:
Judge PRAK Kimsan
Judge Rowan DOWNING
Judge NEY Thol
Judge Katinka LAHUIS
Judge HUOT Vuthy

Copied to:

Office of the Co-Prosecutors:

CHEA Leang
Robert PETIT

Office of the Co-Investigating Judges:

YOU Bunleng
Marcel LEMONDE

Co-Lawyers for the Civil Parties:

HONG Kim Suon
YUNG Phanit
KONG Pisey
LOR Chuntay
NY Chandy
Silke STUDZINSKY

Counsel for IENG Sary:

ANG Udom
Michael KARNAVAS

Victims' Support Unit

KEAT Bophal
Gabriela GONZALEZ RIVAS

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ឯកសារបានថតចម្លងត្រឹមត្រូវតាមច្បាប់ដើម
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2 July 2008
Phnom Penh

Pre-Trial Chamber
Extraordinary Chambers in the Courts of Cambodia

Re: Application of Reconsideration based on a Completion of Facts

Dear Your Honors:

I write you in my capacity as Civil Party, who no longer has legal representation, to request your reconsideration of the decision made yesterday, 1 July 2008, regarding my right as a Civil Party to address the Pre-Trial Chamber in my own voice regarding the jurisdictional issue under deliberation.

I pray for your re-consideration on this issue based on a completion of facts. Unfortunately, complete facts did not come to the attention of your Pre-Trial Chamber before the recess of your deliberation and decision, as I was not permitted to speak. If I had spoken – or my recently dismissed lawyer would have spoken up – I/we would have clarified for you that in my letter and Power of Attorney, dated 30 January 2008, requesting the Office of the Co-Investigating Judges to recognize Mr. NY Chandy as my lawyer, I expressly stated that I would like “to represent myself and/or my lawyer can represent me at all stages of the legal proceedings, particularly in...the Pre-Trial Chamber...” (see attachment). I dismissed my lawyer on the grounds of ineffective representation.

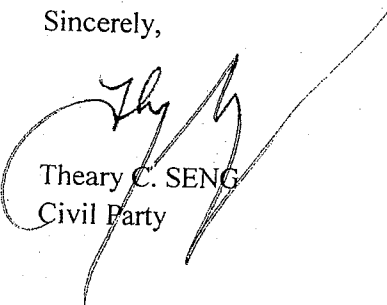
I would like to recall your attention to the facts that I have already appeared and been able to address your honors in this Pre-Trial Chamber in two hearings – that of Mr. NUON Chea and of Mr. KHIEU Samphan.

I would like to assure you that my statements are and will be factual and legal arguments of the issue under deliberation, taking very much into consideration all the concerns attached to what it means to have this unprecedented civil party participation in the ECCC. You would recall that I raised those concerns in my first address to you in the Nuon Chea hearing.

I would like to echo the dissenting opinion of Judge Rowan DOWNING: “I do this on the basis of the possible effect that this matter could have to the extinguishment of her rights to bring a claim under Internal Rule 23.1(b) against the charged person. As a consequence, in my view, it would be unfair pursuant to the fundamental principles of Internal Rules 21.1(a) to not permit this Civil Party to address the Court.”

I pray for your reconsideration to allow me, a Civil Party, to have VOICE. To do otherwise and to stay this decision – in light of new facts – is to violate my fundamental right as a party to be heard.

Sincerely,



Theary C. SENG
Civil Party

Kingdom of Cambodia

Nation Religion King

Power of Attorney Letter

I am **Theary C Seng**, 35, Khmer, living in Sangkat Chey Chumneah, Khan Daun Penh, Phnom Penh, a Civil Party who has been accepted by the Extraordinary Chambers in the Courts of Cambodia (ECCC) in the case file No. 002/19-09-2007-ECCC-OCIJ.

Inform to:

The Extraordinary Chambers in the Courts of Cambodia (ECCC)

I have the honor to inform the Extraordinary Chambers in the Court of Cambodia (ECCC) that I have chosen Attorney **Ny Chandy**, who is a member of the Bar Association of the Kingdom of Cambodia and currently a lawyer of the Legal Aid of Cambodia (address: #55C, Street 390, Sangkat Beoung Kengkang III, Khan Chamkarmorn, Phnom Penh), to take part in and legally represent me at all stages of the ECCC legal proceedings. He has also applied to be included in the list of the Victims Unit of the ECCC.

I, therefore, would like to inform the ECCC and request to officially recognize him as my lawyer from now on.

Phnom Penh, January 30, 2008

Seen and agreed:
Civil Party lawyer

Right thumb print
Civil party

Stamped

Thumb printed

Att. Ny Chandy

Theary C Seng

(The Official letter is made in Khmer. The English version is unofficially translated)

Kingdom of Cambodia**Nation Religion King**

Office of Co-Investigating Judges
Extraordinary Chambers in the Court of Cambodia (ECCC)
Road No. 4, Sangkat Choam Chao, Khan Dangkor
Phnom Penh, Cambodia

Phnom Penh, January 30, 2008

Dear Co-Investigating Judges:

I, Theary C. Seng, am a Civil Party who has been admitted to participate in the proceedings before the ECCC and would like to be a representative in the near future – I am in the process of gathering other individuals – of a group of victims who were orphaned during the Khmer Rouge years (April 1975-Jan. 1979). I would like to inform the Co-Investigating Judges that I have chosen a lawyer to represent my interests before the Court. I will both be represented by Mr. Ny Chandy whose address is at No.55c, Street 390, Sangkat Bung Keng Kang III, Phnom Penh (Legal Aid of Cambodia). Mr. Ny Chandy is a member of the Bar Association of the Kingdom of Cambodia, and is a lawyer with LAC. Mr. Ny Chandy has applied to be included in the list of the Victims Unit of the Extraordinary Chambers in the Courts of Cambodia (ECCC). I would request that either I will be able to represent myself and/or my lawyer can represent me at all stages of the legal proceedings, particularly in the upcoming hearing of the Pre-Trial Chamber with regards to the Appeal made by Nuon Chea, and that either I and/or my lawyer can access files and documents related to my cases and the parties.

I would also like to inform the Co-Investigating Judges that I would like to be present at the court and have some time to raise my statements/ or represented by my lawyer.

I would like to request the Co-Investigating Judges to arrange a room within the court where my lawyer can prepare and meet privately with me before any hearing.


Theary Chan Seng



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Chambres Extraordinaires au sein
des Tribunaux Cambodgiens

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
Bureau des Co-juges d'instruction

សំណុំរឿងព្រហ្មទណ្ឌ
Criminal Case File /Dossier pénal
លេខ/No: 002/14-08-2006
លេខស៊ើបអង្កេត/Investigation/Instruction
លេខ/No: 002/19-09-2007-ECCC/OCIJ

ឯកសារប្រុងច្បាប់ត្រឹមត្រូវតាមច្បាប់ដើម
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មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé
du dossier:..... CHEA KONG /

សេចក្តីសម្រេចអនុញ្ញាតឱ្យប្រតិបត្តិការ
Lawyer's Recognition Decision
Décision d'accréditation d'avocat

Nous, You Bunleng et Marcel Lemonde, co-juges d'instruction des Chambres extraordinaires
au sein des tribunaux cambodgiens,
Vu la Loi sur la création des Chambres extraordinaires en date du 27 octobre 2004,
Vu la Règle 23 du Règlement intérieur des Chambres extraordinaires,
Vu l'instruction ouverte contre : NUON Chea, IENG Sary, IENG Thirith et KHIEU Samphan

Vu la désignation du Me. NY Chandy par Mme. Theary C Seng, partie civile, et son acceptation en
date du 30 janvier 2008,

- 1. Accréditons et reconnaissons Me. NY Chandy comme avocat de la personne sus-visée.
- 2. L'avocat est autorisé à assister sa cliente, à communiquer librement avec elle et à participer aux actes d'instruction.

Fait à Phnom Penh, le 31 janvier 2008

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du dossier: UCH ARUN

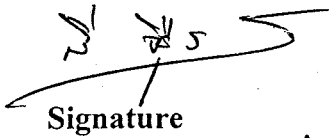
សហចៅក្រមស៊ើបអង្កេត
Co-Investigating Judges
Co-juges d'instruction

MARCEL Lemonde

ឃុំ បឹងកេងកង

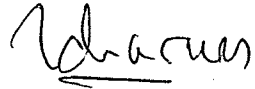
Nous, UCH ARUN , greffier des co-juges d'instruction, avons délivré la présente décision à01/12/.....le 2008.

Reçue par


Signature

My Chandy

Délivrée par


Signature