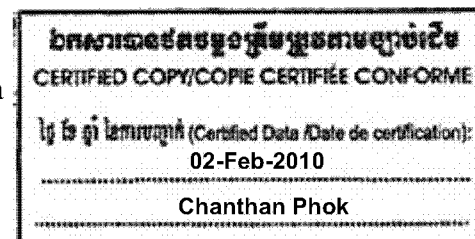


Phnom Penh, 11 January 2010

To: The Co-Investigating Judges
YOU Bunleng
Marcel LEMONDE

Phnom Penh, Cambodia



Investigation No. 002/19-09-2007

Subject: **Request to postpone the 30-day time limit from the receipt of the Notice of Conclusion of Judicial Investigation**

Your Honours,

On 14 January 2010, we received the Notice of Conclusion of Judicial Investigation, in which the Office of the Co-Investigating Judges advised us that they considered that the investigation had been concluded, and confirmed that we had “30 days to request further investigative action”.¹

That same day, no less than 14 orders and several notes and responses originating from your Office, as well as several documents by Parties were placed on the case file. Out of the 14 orders, only the *Ordonnance sur les Demandes de convoquer des témoins déposées par NUON Chea et IENG Sary* was notified in French and in Khmer. All the other decisions were notified in English and in Khmer. The other documents were also filed in English and in Khmer. These documents are in addition to a long list of documents that have not been officially notified to the Defence of Mr KHIEU Samphan.

We wish to once again draw your attention to the fact that your Order on Translation Rights and Obligations of the Parties, as affirmed by the Pre-Trial Chamber, stipulates that Mr KHIEU Samphan “is entitled to receive translation into French (...) [of] all judicial decisions and orders [and] all filings by the Parties” in addition to the Khmer version of such documents.²

¹ Notice of Conclusion of Judicial Investigation, *D317*.

² Decision on Khieu Samphan’s Appeal against the Order on Translation Rights and Obligations of the Parties, 20 February 2009 *A190/I/20*, paras. 37 and 38.

According to the Practice Direction on the Filing of Documents and to established practice before the ECCC, a document is officially notified when it is received by the parties in their second working language. As stated by Judge LEMONDE in his request for an extension of the time limit for responding to the applications for disqualification filed against him, it is impossible to respond or to take any other measures relating to a document before receiving official notification thereof, and the time limits start to run only from this notification.³

For the most part, the decisions and filings are in respect of requests for investigative action by civil parties, the other Charged Persons and the Office of the Co-Prosecutors. Mr KHIEU Samphan has the inalienable right to receive all those documents in French and in Khmer. It is clear, nonetheless, that this right is futile and illusory, considering that the 30-day time limit – which is aimed at enabling parties to make further requests for investigative action – starts to run even though Mr KHIEU Samphan has not received official notification of these documents. Also, it cannot be said that Mr KHIEU Samphan is on equal footing with the Prosecution.

Accordingly, the Co-Lawyers for the Defence hereby request that the 30-day time limit start to run when Mr KHIEU Samphan has received all the orders and parties' filings in his two working languages.

Accept, Your Honours, the assurances of our highest regards.

The Co-Lawyers for the Defence

[Signed]
SA Sovan

[Signed]
for Jacques VERGÈS

³ *Request for Extension of Time to Respond to the Applications for Disqualification, Document 02, 22 October 2009.*