

BEFORE THE SPECIAL PANEL OF THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

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**CO-PROSECUTORS' REQUEST FOR EXTENSION OF PAGES TO RESPOND TO
NUON CHEA'S DISQUALIFICATION APPLICATION AND AUTHORISATION TO
RESPOND IN ONE LANGUAGE IN THE FIRST INSTANCE**

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REQUEST

1. On 29 September 2014, the Defence for Nuon Chea (“Defence”) filed an Application for Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne, and You Ottara (“Application”)¹ before the Special Panel of the Trial Chamber (“Special Panel”) designated to hear this application by the Judicial Administration Committee (“JAC”).²
2. As authorised by the Special Panel,³ the Application amounts to 45 pages in English and 74 pages in Khmer.
3. It is the established practice of the ECCC Trial Chamber and previously-constituted Special Panels to afford the Co-Prosecutors a right to respond to applications for disqualification of judges.⁴ The interest of the Co-Prosecutors in these proceedings is demonstrated generally by their special status as judicial officers under Cambodian law.⁵ Moreover, unlike typical disqualification cases, this Application directly and severely affects the interests of the Office of the Co-Prosecutors. The ECCC is an institution with a single Trial Chamber. Should the Application be granted, foreign judges would need to be recruited, appointed by the Supreme Council of the Magistracy, arrive in Cambodia and read into a trial with already approximately 25,000 pages of transcript on record. This would necessarily delay the start and completion of Case 002/02 by at least six months and likely longer. Given the age of victims and the Co-Accused, such a delay threatens the possibility of ever completing a trial on the critical charges that remain in Case 002/02.

¹ **E314/6** Nuon Chea Application for Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne, and You Ottara, 29 September 2014 (“Application”).

² **E314/4** Decision of the JAC regarding the constitution of the bench following disqualification motions, 4 September 2014.

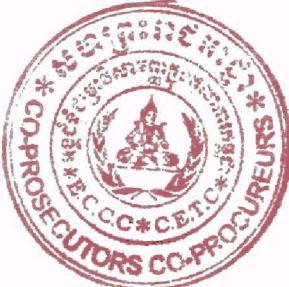


³ Email from the Trial Chamber Senior Legal Office to the Nuon Chea Defence Senior Legal Consultant, “Re: Notice and requests regarding prospective motion for disqualification”, 11 September 2014.

⁴ See e.g. **E55** Co-Prosecutors’ Joint Response to Ieng Thirith, Ieng Sary and Nuon Chea Applications for Disqualification of the Judges, 23 February 2011; **E63/2** Co-Prosecutors’ Response to Ieng Thirith Application to Disqualify Judge You Ottara from the Special Bench, 24 March 2011; **E137/4** Co-Prosecutors’ Joint Response to: 1) Nuon Chea’s Urgent Request for Disqualification of Judge Cartwright; and 2) Ieng Sary’s Request for Investigation Concerning *ex parte* Communications between the International Co-Prosecutors, Judge Cartwright and others, 1 December 2011; **E171/1** Co-Prosecutors’ Response to Nuon Chea’s Third Application for the Disqualification of Judge Cartwright, 24 February 2012; **E191/1** Co-Prosecutors’ Response to Ieng Sary’s Rule 34 Application for Disqualification of Judge Cartwright or, in the alternative, Request for Instruction and Order to Cease and Desist from *ex parte* Communications and Request for Disclosure of *ex parte* Communications, 10 May 2012; **E314/3** Co-Prosecutors’ Response to Khieu Samphan’s Request for Stay of Proceedings or Disqualification of Judges, 4 September 2014.

⁵ Internal Rule 18(3)(a).

4. The Co-Prosecutors' response to the Application falls due on 10 October 2014, being 10 calendar days from the date of notification of the Application.⁶ According to the standard page limit for responses, set out in Article 5.1 of the relevant Practice Direction, any response is limited to 15 pages in English or 30 pages in Khmer.
5. Pursuant to Articles 5.4 and 7.2 of the relevant Practice Direction, the Co-Prosecutors respectfully request the Special Panel to grant an extension of 15 pages for their response in English and authorise the filing of 30 pages in English in the first instance, with a Khmer translation not exceeding 60 pages to be filed as soon as possible.
6. The requested page extension and authorisation to file in one language in the first instance are both justified by exceptional circumstances, owing to: (a) the length of the Application; and (b) the complexity of the factual, legal, constitutional and international public policy arguments advanced therein. While the Defence was granted three times the normal page limit, the Co-Prosecutors have limited their request to double the permitted length, and seek no extension of time, in the interests of concision and the efficiency of these urgent proceedings.
7. For these reasons, the Co-Prosecutors respectfully request the Special Bench to authorise a page extension of 15 pages and afford the Co-Prosecutors 30 pages to file their response, in English only in the first instance, with the Khmer translation to follow as soon as possible.

Respectfully submitted,

Date	Name	Place	Signature
2 October 2014	CHEA Leang Co-Prosecutor	Phnom Penh 	
	Nicholas KOUMJIAN Co-Prosecutor		

⁶ Practice Direction ECCC/2007/1/Rev.8, Filing of Documents before the ECCC, 7 March 2012, Art. 8.3 ("Practice Direction").