

**BEFORE THE SUPREME COURT CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

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**NUON CHEA'S REQUEST TO FILE AN ADDENDUM TO ITS APPEAL AGAINST
THE JUDGMENT IN CASE 002/01**

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Pursuant to Article 8.1 of the *Practice Direction on the Filing of Documents Before the ECCC*, the Co-Lawyers for Nuon Chea (the “Defence”) hereby submit this request to file an addendum to their appeal against the Judgment in Case 002/01 (the “Appeal”):

1. On 29 September 2014, the Defence applied to a Special Panel of the Trial Chamber to disqualify Judges Nonn, Sokhan, Lavergne, and Ottara from all further proceedings against Nuon Chea.¹ On 14 November 2014, the Special Panel dismissed its application and a similar application from the Khieu Samphân Defence Team (the “Disposition”) by 4:1 majority, with Judge Rowan Downing dissenting.² The Special Panel advised that the reasoned majority decision and dissenting opinion would be notified to the parties “in Khmer, English and French, as soon as [they are] available”.³
2. 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, which is due on 29 December. For this reason, on 16 December 2014 – over a month after the issuance of the Special Panel’s Disposition – the Defence requested that, in light of the situation and in the interests of justice, if the reasons would not be notified to the parties in all three languages by 19 December 2014, the Special Panel should circulate them that day as English language courtesy copies.⁴ On 17 December 2014, the Special Panel declined this request as 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”.⁵ The Special Panel further advised that, “[b]ased on the current status of translations and review, *it is unlikely that [the reasons will be notified] before 29 December 2014.*”⁶
3. On 18 December 2014, the Defence requested the Special Panel to reconsider its decision not to circulate English language courtesy copies. It suggested that such circulation was permissible in this exceptional instance in light of all parties’ English language capabilities; the Special Panel having permitted the Defence and OCP to file in

¹ Doc. No. **E314/6**, ‘Nuon Chea Application for the Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne, and You Ottara’, 29 Sep 2014.

² Doc. No. **E314/12**, ‘Decision on Applications for the Disqualification of Trial Chamber Judges’, 14 Nov 2014, p. 3.

³ Doc. No. **E314/12**, p. 3.

⁴ E-mail from the Defence’s Senior Legal Consultant to the Special Panel’s Legal Officer, 16 Dec 2014.

⁵ E-mail from the Special Panel’s Legal Officer to the Defence’s Senior Legal Consultant, 17 Dec 2014.

⁶ E-mail from the Special Panel’s Legal Officer to the Defence’s Senior Legal Consultant, 17 Dec 2014 (emphasis added).

English only during the disqualification proceedings;⁷ and the Trial Chamber's practice of circulating English language courtesy copies.⁸ The same day, the Special Panel rejected the request, since Judge Downing had also dissented on Khieu Samphân's application and "[t]herefore the reasoning will not be released in English alone".⁹

4. The Defence stresses that the reasoned decision, and especially Judge Downing's dissenting opinion, are of particular importance to its Appeal. However, based on the Special Panel's advice, it is unlikely that the Defence will receive the reasons prior to 29 December 2014. In any event, even if the Defence were to receive them today, for example, the Appeal is to be filed in five business days, and it would thus be unreasonable for the Defence to be required to incorporate arguments in light of the reasoned majority decision and dissenting opinion into its Appeal within that time. Therefore, in these circumstances, the Defence submits that permitting it to file an addendum to its Appeal further developing arguments in light of the Special Panel's reasons would be appropriate. Moreover, in the interests of permitting the parties to review these arguments as soon as possible, it would also be appropriate to permit the Defence to file the addendum in English only, with a Khmer translation to follow.
5. For the foregoing reasons, the Defence requests that the Supreme Court Chamber:
 - a. permit the Defence to file an addendum to its Appeal further developing arguments in light of the Special Panel's reasons;
 - b. fix a deadline of 14 days after the date of notification of the Special Panel's reasons for the filing of the addendum; and
 - c. permit the Defence to file the addendum in English only, with a Khmer translation to follow.

CO-LAWYERS FOR NUON CHEA



SON Arun



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⁷ Doc. No. E314/11, 'Decision on Interlocutory Requests Related to Applications for Disqualification', 14 Nov 2014.

⁸ E-mail from the Defence's Senior Legal Consultant to the Special Panel's Legal Officer (with attachments), 18 Dec 2014.

⁹ E-mail from the Special Panel's Legal Officer to the Defence's Senior Legal Consultant, 18 Dec 2014.