



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Royaume du Cambodge
Nation Religion Roi
Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des Tribunaux cambodgiens

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

Case File No.: 003/07-09-2009-ECCC-OCIJ

ឯកសារដើម
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception): ០៨ / ០៤ / ២០១៣
ម៉ោង (Time/Heure):..... ១៦ : ០០
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: <i>SANN RANA</i>

Before: **YOU Bunleng**
Mark B. HARMON
Date: **5 April 2013**
Original: **English**
Classification: **Strictly Confidential Declassified to Public**

**DECISION ON INTERNATIONAL CO-PROSECUTOR'S REQUEST FOR AN
EXTENSION OF PAGE LIMIT AND TO FILE HIS SUBMISSIONS IN
ENGLISH**

<u>Distribution to</u>	<u>Copied to</u>
Co-Prosecutors	Co-Lawyers-Designate
Mrs CHEA Leang	Mr ANG Udom
Mr Andrew Cayley	Mr Michael Karnavas

1. **Noting** the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia, dated 27 October 2004 (the “ECCC Law”);
2. **Noting** Rules 21, 39(6), 55 and 72 of the ECCC Internal Rules (the “Internal Rules”) and the Practice Direction on Filing of Documents before the ECCC (the “Practice Direction on Filing”);
3. **Noting** the Second Introductory Submission, dated 20 November 2008, relating to Case File 004,¹ which was placed on the case file on 7 September 2009;
4. **Noting** the judicial investigation opened in relation to alleged violations of the **1956 Penal Code, Crimes against Humanity and Grave Breaches to the Geneva Conventions of 12 August 1949**, punishable under Articles 3 (new), 5, 6, 29 (new) and 39 (new) of the ECCC Law; and Articles 209, 210, 500, 501, 503, 504, 505, 506, 507 and 508 of the 1956 Penal Code;

DISCUSSION

Procedural History

5. On 3 April 2013, the International Co-Prosecutor filed his Supplementary Submissions on Conflict of Interest of Co-Lawyers-Designate (the “Supplementary Submissions”). In said submissions, and pursuant to Articles 5.4 and 7.2 of the applicable Practice Directions² the International Co-Prosecutor requested the Co-Investigating Judges to allow the filing of his Supplementary Submissions in English only (with the Khmer version to follow as soon as possible and likely within three working days) and to extend the applicable page limit for these Supplementary Submissions by 16 pages.

Applicable Law

6. Internal Rule 39(6) read together with Articles 5.1 and 5.4 of the Practice Directions on Filing provide that documents filed with the Co-Investigating Judges should not exceed 15 pages in English unless, at the request of a party, the Judges consider that exceptional circumstances warrant extending the limit.
7. Article 7.2 of the Practice Directions on Filing of Documents provide that: “[I]n exceptional circumstances, the Co-Investigating Judges or a Chamber of the ECCC may authorise a party to file a document in French or in English in

¹ Case File No. 003/07-09-2009-ECCC-OCIJ-D1, *Co-Prosecutor’s Second Introductory Submission*, 20 November 2008.

² Practice Directions on Filing of Documents, Rev. 8.

the first instance, provided however, that a Khmer translation must be filed before the Chamber at the first opportunity.”

Arguments by the Filing Party

- 8. The applicant requested leave from the Co-Investigating Judges to file a motion that runs to 31 pages in the English language. The International Co-Prosecutor submitted that the complex nature of the matter at hand requires analysis of legal sources from multiple international and domestic jurisdictions, as well as review of a comprehensive set of facts and factual allegations. The filing concerns the conflict of interest across two multi-accused cases, involving a current and a deceased client and concerning lawyers subject to dual deontology.
- 9. The International Co-Prosecutor further submitted that should leave to exceed page limits be withheld, he requests one working day to comply and resubmit.
- 10. The International Co-Prosecutor also requested leave to file his Supplementary Submissions in English only, with the Khmer version to follow as soon as possible and likely within three working days.
- 11. Based on the particular circumstances of the case, the complex nature and the importance of the issue under determination, and considering that granting the extension of the page limit will not be prejudicial to either any of the parties or to the conduct of the investigation, the request to file the 31 pages supplementary submission in English only, with the Khmer version to follow within three working days, should be granted.

THEREFORE I, MARK B. HARMON, HEREBY:

- 12. **DECIDE** to declare the filing admissible and to place the Supplementary Submissions on the Case File under Document Number D56/7.
- 13. **GRANT** the request for extension of page limit.

Done in Phnom Penh, on 5 April 2013.



Mark B. Harmon

សហចៅក្រមស៊ើបអង្កេតអន្តរជាតិ

**International Co-Investigating Judge
Co-Juge d’Instruction International**

