

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

Case No: 002/19-09-2007-ECCC/TC

Party Filing: Co-Prosecutors

Filed to: Trial Chamber

Original Language: English

Date of document: 26 August 2015



CLASSIFICATION

**Classification of the document
suggested by the filing party:** PUBLIC

Classification by Trial Chamber: សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:

**CO-PROSECUTORS' REQUEST REGARDING THE FUTURE COURSE OF THE KEY
DOCUMENT HEARING RELATING TO WORKSITES**

Filed by:

Co-Prosecutors

CHEA Leang
Nicholas KOUMJIAN

Distributed to:

Trial Chamber

Judge NIL Nonn, President
Judge Jean-Marc LAVERGNE
Judge YA Sokhan
Judge Claudia FENZ
Judge YOU Ottara

Civil Party Lead Co-Lawyers

PICH Ang
Marie GUIRAUD

Copied to:

Accused

NUON Chea
KHIEU Samphan

Lawyers for the Defence

SON Arun
Victor KOPPE
KONG Sam Onn
Anta GUISSÉ
Arthur VERCKEN

Standby Counsel

TOUCH Voleak
Calvin SAUNDERS



REQUEST

1. Earlier today, Defence Counsel for Nuon Chea and Khieu Samphan withdrew from court without leave of the Chamber because of a disagreement with a procedural ruling of the Chamber. The Co-Prosecutors now make submissions regarding the future course of the key document hearing relating to the Case 002/02 worksites.
2. Despite Defence Counsel's unjustified withdrawal, the Co-Prosecutors request that the Trial Chamber continue to hear the Co-Prosecutors' and Civil Party Co-Lawyers' presentations tomorrow, whether or not counsel for both Accused choose to participate.
3. The Co-Prosecutors further request that the Trial Chamber order counsel for both Accused to indicate whether they acted on their own impulse or on the instructions of their clients. In addition, if they failed to obtain instructions from their clients before acting, counsel should indicate whether they have they received any instructions from their clients on the conduct of the remainder of the document hearings following their withdrawal. If they have, these positions should be communicated to the Chamber and the Parties.
4. Given the importance of the right to be represented, the Co-Prosecutors request that the Trial Chamber explain to the Accused that by condoning the boycott of court proceedings by their counsel (if that is the case), they are waiving their right to be represented. The Trial Chamber should then inquire of the Accused themselves if it is their wish not to be represented at the key document hearings.
5. In the event that Defence Counsel do not appear tomorrow, and bearing in mind that the withdrawal by Counsel appears to be limited to the key document hearings scheduled to finish on Monday 31 August 2015, to ensure the integrity of the proceedings we request that the Standby Counsel for Khieu Samphan be appointed as *amici curiae* for the remainder of the Co-Prosecutors' and Lead Co-Lawyers' presentations tomorrow. Such *amici curiae* would have a limited role as assistants to the court to ensure the fairness of the proceedings, and not necessarily to represent the Accused.¹

¹ See **E321** Co-Prosecutors' Request to Assign *Amici Curiae* Counsel and Advance the Trial Proceedings, 22 October 2014 and **E321/2** Decision on the Appointment of Court Appointed Standby Counsel for Khieu Samphan, 5 December 2014.

6. If the Chamber decides not to adopt such a course, and both Accused have instructed their Counsel to not appear and understand the consequences, the Co-Prosecutors request that the key document hearing continue in the absence of Defence Counsel. For the avoidance of doubt, this request relates only to the key document hearing related to the Case 002/02 worksites.
7. Because of the urgency of this matter, and consistent with the relevant practice direction, these submissions are filed in English only, with the Khmer translation to follow at the earliest opportunity.²

Respectfully submitted,

Date	Name	Place	Signature
26 August 2015	CHEA Leang Co-Prosecutor	Phnom Penh	
	Nicholas KOUMJIAN Co-Prosecutor		

² Practice Direction ECCC/2007/1/Rev. 8 Filing of Documents before the ECCC, 7 March 2012, Art. 8.3.