

**BEFORE THE OFFICE OF THE CO-INVESTIGATING JUDGES
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 003/07-09-2009-ECCC/OCIJ **Party Filing:** The Defence for MEAS Muth

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**MEAS MUTH'S REQUEST TO BE PERMITTED TO FILE A FIFTEEN PAGE
COMBINED RESPONSE TO AMICUS CURIAE BRIEFS ON THE QUESTION OF
WHETHER UNDER CUSTOMARY INTERNATIONAL LAW IN 1975-1979 AN
ATTACK BY A STATE OR ORGANIZATION AGAINST ITS OWN ARMED
FORCES COULD AMOUNT TO AN ATTACK DIRECTED AGAINST A CIVILIAN
POPULATION**

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All Civil Parties

Case 004 Defence Teams

Mr. MEAS Muth, through his Co-Lawyers (“the Defence”), hereby requests to be permitted to file a combined response of fifteen pages to the *amicus curiae* submissions on the question of whether “under customary international law [(“CIL”)] applicable between 1975 and 1979, an attack by a state or organisation against a member of *its own* armed forces may amount to an attack directed at a civilian population....”¹ In the alternative, should any Case 004 Defence team choose not to respond to the *amicus curiae* submissions, the Defence requests to be allotted that team’s word limit in addition to the Defence’s 3,000-word limit imposed by the International Co-Investigating Judge for a combined response. Due to the urgency of this Request, it is submitted in English with the Khmer to follow as soon as the translation is complete.

1. Article 5.1 of the Practice Direction on the Filing of Documents before the ECCC provides that the parties have a 15-page limit for submissions filed to the Office of the Co-Investigating Judges, unless otherwise ordered by the ECCC. Eleven *amici curiae* filed submissions pursuant to the Call for Submissions.² Rather than allowing the parties to file 15-page responses to these submissions, the International Co-Investigating Judge informed the parties that “combined responses [to the *amicus curiae* submissions] shall not exceed 3,000 words (including footnotes).”³
2. The Defence cannot adequately respond to 11 *amicus curiae* submissions – of a combined total of approximately 33,000 words – in a single 3,000-word submission. The issue raised in the Call for Submissions is complex and its correct resolution is vital to Mr. MEAS Muth’s case. His Co-Lawyers would not be acting with due diligence if they did not fully respond to the *amici curiae* arguments. A combined response of 15 pages should

¹ Call for Submissions by the Parties in Cases 003 and 004 and Call for *Amicus Curiae* Briefs, 19 April 2016, D191 (“Call for Submissions”), para. 3.

² *Amicus Curiae* Brief in Cases 003 and 004 – Professor Ben Saul, 19 May 2016, D191/3; *Amicus Curiae* Brief for Cases 003 and 004, 19 May 2016, D191/4; *Amicus Curiae* Brief, 19 May 2016, D191/5; *Amicus Curiae* Brief of Professors Robinson, deGuzman, Jalloh and Cryer on Crimes Against Humanity (Cases 003 and 004), 17 May 2016, D191/6; Brief of Ido Rosenzweig, 19 May 2016, D191/7; Brief of Dr. Joanna Nicholson as *Amicus Curiae* in Support of Neither Party, 19 May 2016, D191/8; *Amicus Curiae* for International Co-Investigating Judge, 17 May 2016, D191/9; *Amicus Curiae* Brief in Response to Call for Submissions [sic] by the Parties in the Cases 003 and 004 and Call for *Amicus Curiae* Briefs, 19 May 2016, D191/10; *Amicus Curiae* Brief Filed by Drs Williams and Grey in Response to Call for *Amicus Curiae* Briefs in Cases 003 and 004 Dated 19 April [sic] 2016, 19 April [sic] 2016, D191/11; *Amicus* Brief Filed by the Center for International and Comparative Law, University of Baltimore School of Law on the Legality of Targeting Members of One’s Own Military, 18 May 2016, D191/12; Queen’s University Belfast Human Rights Centre Response to the ECCC Office of the Co-Investigating Judges’ ‘Call for Submissions by the Parties in Cases 003 and 004 and Call for *Amicus Curiae* Briefs’, 12 May 2016, D191/13.


³ Call for Submissions, para. 13.

be sufficient to address the arguments made by the 11 *amici curiae* without overburdening the Interpretation and Translation Unit (“ITU”). The Office of the Co-Prosecutors will not be prejudiced by this Request. It may request its own extension should it deem an extension necessary.


3. Should the Co-Investigating Judges be disinclined to permit the Defence to file a 15-page combined response, the Defence should be permitted to use a Case 004 Defence team’s 3,000-word limit to add to the Defence’s own word limit, if any Case 004 team intends to forgo preparing its own response. This would assist the Co-Lawyers in meeting their due diligence obligations to Mr. MEAS Muth without resulting in any additional burden on the ITU.

WHEREFORE, for all of the reasons stated herein, the Defence respectfully requests to be permitted to file a combined response of 15 pages to the *amicus curiae* submissions or, in the alternative, to be allotted a Case 004 Defence team’s 3,000-words, should one of the Case 004 teams decide not to respond to the *amici curiae*.

Respectfully submitted,



ANG Udom



Michael G. KARNAVAS
Co-Lawyers for Mr. MEAS Muth

Signed in Phnom Penh, Kingdom of Cambodia on this 31st day of **May, 2016**