

C26/5/6

**BEFORE THE PRE-TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**Case No.** : 002/19-09-2007-ECCC-OCIJ (PTC 15)  
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**CO-PROSECUTORS' APPLICATION FOR EXTENSION OF TIME TO FILE  
THEIR RESPONSE TO KHIEU SAMPHAN'S APPEAL AGAINST  
THE ORDER ON EXTENSION OF PROVISIONAL DETENTION**

**Filed by:**

**Office of the Co-Prosecutors:**

Ms. CHEA Leang  
Mr. Robert PETIT  
Mr. YET Chakriya  
Mr. William SMITH  
Mr. PICH Sambath  
Mr. Vincent de WILDE d'ESTMAEL

**Distributed to:**

**Pre-Trial Chamber:**

Judge PRAK Kimsan  
Judge Rowan DOWNING  
Judge NEY Thol  
Judge Katinka LAHUIS  
Judge HUOT Vuthy

**Defence Counsel**

**for KHIEU Samphan**  
Mr. SA Sovan  
Mr. Jacques VERGÈS

<b>ឯកសារចម្លងត្រឹមត្រូវតាមច្បាប់ដើម</b>	
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K. K. Ratanak	

## I. BACKGROUND

1. On 23 December 2008, the Co-Prosecutors received notification in English, of KHIEU Samphan's Appeal against the Order on Extension of his provisional detention by the Co-Investigating Judges, following the notification of its Khmer version on 8 December 2008.<sup>1</sup> Pursuant to ECCC Practice Direction Article 8 (3) and (5), the time limit of fifteen days commences at the time of the notification in the languages requested by the Office of the Co-Prosecutors ("OCP"), being Khmer and English. Accordingly, the estimated last date for filing Co-Prosecutors' response to this Appeal is 6 January 2009.
2. The Co-Prosecutors, however, anticipate that owing to (1) their limited and overstretched translation capacity, (2) absence of legal personnel, (3) simultaneous due dates of filings of a number of pleadings, and (4) the intervening public holidays, they will not be able to respond to this Appeal on or before the due date and request the authorization to file their response by 13 January 2009.

## II. ARGUMENT

3. The Office of the Co-Prosecutors (OCP) has three in-house translators. Four full working days are required to ensure that the full text and footnotes of a single substantive appeal's response are translated accurately. Translators/interpreters are also central to the process of communication between the Co-Prosecutors themselves, between staff of the OCP and to the discussion, which precedes the filing of an important document such as this.
4. Moreover, due to the pre-approved absence of legal personnel, the OCP's capacity to respond during this holiday period has been further diminished.
5. Owing to the near simultaneous deadlines of filing, *inter alia*, of the following documents, the OCP's lawyers and the OCP's in-house translators will not be able to draft and translate the Appeal's response before the due date:
  - National Co-Prosecutor's Response to Statement of Disagreement;<sup>2</sup>
  - Response to Ieng Sary's Appeal against Extension of Detention;<sup>3</sup>

<sup>1</sup> *Case of KHIEU Samphan*, Appeal against the Order on Extension of Provisional Detention dated 4 December 2008, C26/5/1 (PTC15), ERN 00249732-48 (FRE).

<sup>2</sup> Due on 29 December 2008.

- Response to Ieng Thirith's Appeal against Extension of Detention;<sup>4</sup>
  - Response to Khieu Samphan's Appeal against Extension of Detention;<sup>5</sup>
  - Response to Khieu Samphan's Appeal against Order Refusing Request for Release;<sup>6</sup>
  - Co-Prosecutors' Supplementary Submission on JCE.<sup>7</sup>
6. The CMS pool of translators has already been solicited to help alleviating the burden of translation, namely by translating the Co-Prosecutors' Supplementary Submission on JCE.<sup>8</sup>
7. This burden on the legal capacity and translation is compounded by not less than four Court holidays that fall before the due date of filing of the Appeal's Response (25 and 26 December 2008, 1 and 2 January 2009).

### III. REQUEST

8. Owing to these reasons and bearing in mind that the Pre-Trial Chamber already granted on 24 December 2008 that the date of filing of both Ieng Sary and Ieng Thirith's Appeals' responses be extended to 9 January 2009, the Co-Prosecutors request that the Pre-Trial Chamber grant one additional week to file their response in both English and Khmer languages, by 13 January 2009.

<sup>3</sup> *Case of IENG Sary*, Appeal against the OCIJ Order on Extension of Provisional Detention dated 10 December 2008, C 22/5/I, (PTC 17). This document was notified by the Case File Officer to the Co-Prosecutors by email on 12 December 2008 and the response is due on 9 January 2009 pursuant to the PTC decision dated 24 December 2008.

<sup>4</sup> *Case of IENG Thirith*, Ieng Thirith's Defence Appeal against Order on Extension of Provisional Detention of 10 November 2008 dated 9 December 2008, C 20/5/I (PTC 16), ERN 00250142-63 (ENG). This document was notified by the Case File Officer to the Co-Prosecutors by email on 11 December 2008 and the response is due on 9 January 2009 pursuant to the PTC decision dated 24 December 2008

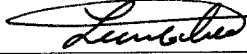
<sup>5</sup> *Case of KHIEU Samphan*, Appeal against the Order on Extension of Provisional Detention dated 4 December 2008, C26/5/1 (PTC 15).

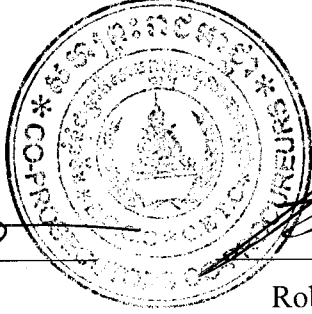
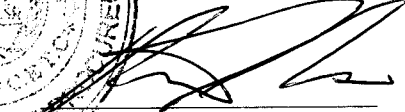
<sup>6</sup> *Case of KHIEU Samphan*, Appeal Brief against Order Refusing Request for Release of 28 October 2008 dated 27 November 2008, C 40/5/I (PTC 14).

<sup>7</sup> A document of about 30 pages must be filed before the Co-Investigating Judges in Case File No. 002 before 31 December 2008.

<sup>8</sup> OCP has also requested CMS translators to translate numerous exhibit documents in the Case File No. 001 which constitute a high priority due to the date set for the commencement of the trial.

9. The Co-Prosecutors submit that this extension shall not cause any material prejudice to the rights of the Charged Person and shall serve the ends of justice. They make this request being cognizant of the substantive nature of this Appeal and the important legal and factual issues it raises regarding the rights and liberty of a defendant before this tribunal.

  
CHEA Leang  
Co-Prosecutor

  
  
Robert PETIT  
Co-Prosecutor

Signed in Phnom Penh on this twenty-ninth day of December 2008.