

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

Case File No. : 002/19-09-2007-ECCC/OCLJ
Date of Filing : 3 March 2009
Party Filing : Office of the Co-Prosecutors
Original Language : English
Type of Document : Public

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):	
..... 03 / 03 / 2009	
ម៉ោង (Time/Heure):	
..... 16 : 00	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé	
du dossier: SANN RADA	

**CO-PROSECUTORS' REQUEST FOR EXTENSION OF PAGE LIMIT TO
FILE THEIR RESPONSE TO IENG THIRITH'S MOTION ON
EXCLUSION OF EVIDENCE OBTAINED BY TORTURE**

Filed by:

Office of the Co-Prosecutors:
CHEA Leang
Robert PETIT
YET Chakriya
William SMITH
PICH Sambath
Vincent de WILDE

Distribute to:

Counsel for the Charged Persons:
Victor Koppe
M Pestman
SA Sovan
Jacques VERGES
KAR Savuth
Francois ROUX

Distribute to:

Co-Investigating Judges:
YOU Bunleng
Marcel LEMONDE

Counsel for the Charged Person IENG Thirith:
PHAT Pouy Seang
Diana Ellis

Counsel for the other Charged Persons:
ANG Udom
Michael G. KARNAVAS
SON Arun

Counsel for the Civil Parties:

HONG Kim Suon
LOR Chunthy
NY Chandy
KONG Pisey
YONG Phanith
KIM Mengkhy
MOCH Sovannary
Silke STUDZINSKY
Martine JACQUIN
Philippe CANNONE
Pierre Olivier SUR
Elizabeth RABESANRATANA
Olivier BAHOUAGNE
David BLACKMAN

ឯកសារច្បាប់សម្រាប់ប្រើប្រាស់	
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME	
ថ្ងៃ ខែ ឆ្នាំ ធ្វើការបញ្ជាក់ (Certified Date/Date de certification):	
..... 05 / 03 / 2009	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé	
du dossier: Ratanak	

BACKGROUND

1. On 11 February 2009, the Co-Prosecutors received Charged Person IENG Thirith's request for exclusion of evidence obtained by torture ("Request").¹
2. Given the importance of the issue, the Co-Prosecutors shall file a substantive response brief on or before 30 April 2009. The Co-Prosecutors, however, submit that the page limit of fifteen pages, set by the relevant Practice Direction, will not be sufficient to adequately address all the aspects of this important issue.² It is, therefore, requested that the Co-Investigating Judges extend the page limit to thirty pages so that the parties can sufficiently brief them. The Practice Direction allows the Co-Investigating Judges to do so under "exceptional circumstances."³ International criminal law practice, of persuasive significance before this Court, also supports such extension.⁴
3. The exceptional circumstances, amongst others, justifying extension of page limit are that this issue is complex and will require an analysis of statutory provisions and the jurisprudence since the Second World War. The analysis will also include a survey of Cambodian law for the past few decades. Further, as a lot has been written on this issue, a survey of scholarly writings also will necessarily have to be part of a brief to permit the Co-Investigating Judges to make a fully informed decision.

¹ *Case of IENG Thirith*, Defence Request for Exclusion of Evidence Obtained by Torture, 11 February 2009, D130, ERN 00281011-00281025 [*hereinafter* Request].

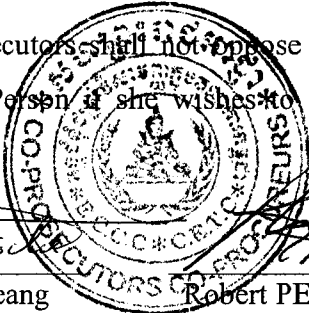
² Practice Direction on Filing of Documents Before the ECCC, Revision 3, 27 October 2008, art. 5.1[*hereinafter* Practice Direction].


³ Practice Direction, art. 5.4.


⁴ *Prosecutor v. Brima et al*, Decision on Urgent Prosecution Motion for an Extension of the Page Limit for its Appeal Brief, SCSL-2004-16-A, 24 August 2007, p. 2; *Prosecutor v. Seselj*, Decision on the Prosecution Request to Exceed the Ten Page Limit for Motions, IT-03-67-PT, ICTY Trial Chamber, 4 February 2004, p. 2; *Prosecutor v. Stanasic*, Decision on Defence Request for Extension of Page Limit Pertaining to Defence Pre-Trial Brief, IT-03-69-PT, ICTY Trial Chamber, 6 December 2004, p. 2; *Prosecutor v. Milutinovic*, Decision on Prosecution Request for Extension of Page Limit, IT-99-37-PT, ICTY Trial Chamber, 3 June 2004, p. 2.

REQUEST

4. The Co-Prosecutors request that the Co-Investigating Judges extend the page limit for filing their response to thirty pages. This extension shall not cause any material prejudice to the rights of the applicant Charged Person and shall be in the interest of justice.⁵
5. If an extension, as sought, is granted, the Co-Prosecutors shall not oppose an appropriate extension of page limit to the applicant Charged Person if she wishes to respond to the responses of the parties.




CHEA Leang
Co-Prosecutor


Robert PETIT
Co-Prosecutor

Signed in Phnom Penh on this third day of March 2009

⁵ *Prosecutor v. Brdjanin*, Decision on Prosecution Request for Extension of Page Limit on 98 *Bis* Response, IT-99-36-T, ICTY Trial Chamber, 5 September 2003, p. 1.