

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA



FILING DETAILS

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CO-PROSECUTORS' REQUEST FOR EXTENSION OF TIME TO REPLY TO DEFENCE REPOSSES ON JCE III, RAPE AS A CRIME AGAINST HUMANITY AND EXCLUSION OF THE ARMED CONFLICT NEXUS FOR CRIMES AGAINST HUMANITY

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REQUEST

1. Pursuant to ECCC Internal Rule 39(4) the Co-Prosecutors (“OCP”) respectfully request an extension of time to file their reply to pending Defence responses to the “*Co-Prosecutors’ request to the Trial Chamber to consider JCE III as an alternative mode of liability*”¹; the “*Co-Prosecutors’ request for the Trial Chamber to recharacterise the facts establishing the conduct of rape as the crime against humanity of rape rather than the crime against humanity of other inhumane acts*”²; and the “*Co-Prosecutors’ request for the Trial Chamber to exclude the armed conflict nexus requirement from the definition of crimes against humanity*”³ (“OCP Submissions”).
2. On 20 June 2011, the parties were advised by email from the Senior Judicial Coordinator, Ms Susan Lamb, that responses to the OCP Submissions were due by 22 July 2011, and that the OCP was granted 10 days to reply. According to this timeline, the OCP replies fall due on 1 August 2011.
3. On 25 July 2011, the OCP had received notifications of three Defence responses filed on 22 July 2011 by the Co-Lawyers for Ieng Thirith, one of which was filed in English only.⁴ On 26 July 2011, the Ieng Sary and Khieu Samphan Defence teams advised the OCP that they had filed separate responses to the three briefs on 22 July 2011. On 26 July 2011, the OCP received notifications of two Defence responses, in English only, filed on 22 July 2011 by the Co-Lawyers for Nuon Chea.⁵ The Khmer versions of these filings have not yet been notified. As of the time of filing this request, no responses have been notified from the Ieng Sary or Khieu Samphan Defence teams.

¹ **E100**, Co-Prosecutors’ request to the Trial Chamber to consider JCE III as an alternative mode of liability, 17 June 2011, ERN 00708242-56.

² **E99** Co-Prosecutors’ request for the Trial Chamber to recharacterise the facts establishing the conduct of rape as the crime against humanity of rape rather than the crime against humanity of other inhumane acts, 16 June 2011, ERN 00708301-15.


³ **E95** Co-Prosecutors’ request for the Trial Chamber to exclude the armed conflict nexus requirement from the definition of crimes against humanity, 15 June 2011, ERN 00705887-901.

⁴ **E99/2** Defence response to “Co-Prosecutors’ request for the Trial Chamber to recharacterise the facts establishing the conduct of rape as the crime against humanity of rape rather than the crime against humanity of other inhumane acts”, 22 July 2011, ERN 00716118-32 (in English only); **E100/1** Defence response to “Co-Prosecutors’ request for the Trial Chamber to consider JCE as an alternative mode of liability”, 22 July 2011, ERN 00714810-22; **E95/2** Defence response to “Co-Prosecutors’ request for the Trial Chamber to amend the definition of crimes against humanity”, 22 July 2011, ERN 00714797-809.

⁵ **E100/5** Defence response to “Co-Prosecutors’ request for the Trial Chamber to consider JCE as an alternative mode of liability”, 22 July 2011, ERN 00717650-7; **E95/5**, Defence response to the “Co-Prosecutors’ request for the Trial Chamber to exclude the armed conflict nexus requirement from the definition of crimes against humanity”, 22 July 2011, ERN 00717406-14.

4. Four full working days remain before the due date for the OCP reply in which time the OCP is still yet to receive any responses from Ieng Sary, Khieu Samphan and yet to receive three responses from Ieng Thirith and Nuon Chea in Khmer combined. Within this time, translation is necessarily required. In the interests of efficiency, the OCP intends to submit a consolidated reply to the Defence responses, once received, on the three substantive issues, which are by nature complex and raise a number of common issues. In view of the lack of notification in the case of Ieng Sary and Khieu Samphan and the delayed notification in the case of Ieng Thirith and Nuon Chea of which three responses are only in English, the OCP will be unable to prepare and translate a reasoned reply according to the current schedule.
5. For these reasons, the OCP respectfully requests the Trial Chamber to allow the OCP to submit its reply within 10 days of the date of notification of the last Defence response to the OCP Submissions in English and Khmer. It is submitted this extension would meet the intent of the Trial Chamber, allow the Khmer-speaking lawyers in the OCP to contribute to the assessment, drafting and review of the OCP reply, and allow the Co-Prosecutors to provide a submission that is succinct and ensures the most effective use of ECCC translation resources.

Respectfully submitted,

Date	Name	Place	Signature
26 July 2011	CHEA Leang Co-Prosecutor	Phnom Penh	
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