



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia  
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា  
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia  
Nation Religion King  
Royaume du Cambodge  
Nation Religion Roi

អង្គជំនុំជម្រះតុលាការកំពូល

Supreme Court Chamber  
Chambre de la Cour suprême

**ឯកសារដើម**  
**ORIGINAL/ORIGINAL**  
ថ្ងៃ ខែ ឆ្នាំ (Date): 18-Oct-2011, 10:30  
CMS/CFO: Uch Arun

សំណុំរឿងលេខ: ០០២/១៩ ០៩ ២០០៧-អ.វ.ត.ក-អ.ជ.ស.ដ/អ.ជ.ត.ក(០៨)

Case File/Dossier N°. 002/19-09-2007-ECCC-TC/SC(08)

**Before:** Judge MONG Monichariya, Officer in Charge.  
Judge Motoo NOGUCHI  
Judge SOM Sereyvuth  
Judge Agnieszka KLONOWIECKA-MILART  
Judge SIN Rith  
Judge Chandra Nihal JAYASINGHE  
Judge YA Narin

**Date:** 18 October 2011  
**Original Language(s):** English/Khmer  
**Classification:** CONFIDENTIAL

សាធារណៈ / Public

31/01/2012

**DECISION ON CO-PROSECUTORS' REQUEST FOR EXTENSION OF TIME TO RESPOND TO NUON CHEA'S IMMEDIATE APPEAL UNDER INTERNAL RULE 104(4)(D)**

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THE SUPREME COURT CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) is seised of a request by the Co-Prosecutors for an extension of time (“Request”) to file their response to an immediate appeal filed by NUON Chea against the Trial Chamber’s decision on his request under Internal Rule 35 for investigation into alleged interference with the administration of justice (“Rule 35 Request”);<sup>1</sup>

## I. PROCEDURAL HISTORY

1. On 9 September 2011, the Trial Chamber issued its “Decision on NUON Chea Motions Regarding Fairness of Judicial Investigation (E51/3, E82, E88, and E92)” (“Trial Chamber’s Decision”), which included the Trial Chamber’s decision on NUON Chea’s Rule 35 Request.<sup>2</sup> NUON Chea has appealed to the Supreme Court Chamber against the Trial Chamber’s Decision insofar as it rejected his Rule 35 Request (“Immediate Appeal”).<sup>3</sup>
2. On 11 October 2011, the English language of NUON Chea’s Immediate Appeal was notified to the parties. On 13 October 2011, the Co-Prosecutors filed the present Request, in which they ask for an extension of 20 calendar days, until 10 November 2011, to file their response to NUON Chea’s Immediate Appeal.

## II. REASONING

### A. Applicable Law

3. Internal Rule 39(4)(a) (Rev. 8) provides as follows:

[T]he Chambers may, at the request of the concerned party or on their own motion:

(a) extend any time limits set by them . . .

4. The relevant articles of the Practice Direction on Filing of Documents before the ECCC (Rev. 7) (“Practice Direction on Filing”) are the following:

<sup>1</sup> Co-Prosecutors’ Request for Extension of Time to Respond to Nuon Chea’s Appeal Against the Trial Chamber Decision Regarding the Fairness of the Judicial Investigation, 13 October 2011, E116/1/2.

<sup>2</sup> E116.

<sup>3</sup> Immediate Appeal Against the Trial Chamber Decision Regarding the Fairness of the Judicial Investigation, 10 October 2011, E116/1/1.



Unless otherwise provided in the Internal Rules or this Practice Direction or ordered by a Chamber of the ECCC, pleadings and applications shall be filed with the greffier of the Chamber hearing the case together with the relevant authorities in accordance with the following timetable, subject to the right in Rule 39 of the Internal Rules to request an extension of time limits.

...

Any response to an application or pleadings shall be filed together with any list of authorities within 10 calendar days of notification of the document to which the participant is responding.

...

Except as otherwise directed by the Co-Investigating Judges or a Chamber of the ECCC, time limits commence on the first calendar day following the day of service of the Notification of the document in Khmer and one other official language of the ECCC. Exceptionally, the Co-Investigating Judges or a Chamber may decide that the time limits commence on the first calendar day following the day of filing in all three languages.<sup>4</sup>

## B. Merits

5. The Co-Prosecutors submit that they need until 10 November 2011, being an additional 20 calendar days, to prepare a “well reasoned and comprehensive response to the complex legal and factual issues raised” in the Immediate Appeal, which “incorporates by reference the factual issues contained in a series of requests, applications, objections, and appeals filed between March 2009 and April 2011 . . . It is simply not realistic for [the response] to be done within 10 days, which includes translation time.”<sup>5</sup>
6. The Supreme Court Chamber finds that the complexity of legal and factual issues raised in the Immediate Appeal constitute good cause<sup>6</sup> to grant the Co-Prosecutors an extension of time to file their response. Nevertheless, the Chamber finds that the Co-Prosecutors have not justified their Request for an extension of 20 additional calendar days, which, if granted, would result in a time limit for the Co-Prosecutors’ response that is three times greater than what the Practice Direction on Filing normally expects of respondents, including those who do not have at their disposal an official apparatus of support. Moreover, the Supreme Court Chamber understands that the Co-Prosecutors are already familiar with the complex issues raised in the Immediate Appeal due to their participation as a party in the “series of requests, applications, objections, and appeals filed between March 2009 and April 2011.” The Supreme Court Chamber therefore decides to grant the Co-Prosecutors an extension of 5 additional calendar days to file their

<sup>4</sup> ECCC/01/2007/Rev.7, Articles 8.1, 8.3, 8.5.

<sup>5</sup> Request, para. 2.

<sup>6</sup> International Criminal Court, Regulations of the Court, ICC-BD/01-02-07, 26 May 2004 (as amended), Regulation 35(2) (“The Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard . . .”).



response in Khmer and English or French to the Immediate Appeal. As a result of this Decision, the Co-Prosecutors have 15 calendar days to file their response.

7. The Supreme Court Chamber recalls that, pursuant to Article 8.5 of the Practice Direction on Filing, the general rule is that time limits for pleadings “commence on the first calendar day following the day of service of the Notification of the document in Khmer and one other official language of the ECCC.” NUON Chea’s Immediate Appeal was initially notified in English on 11 October 2011, and as of the date of this Decision the Khmer translation has not yet been notified to the parties. The Co-Prosecutors’ 15-day time limit to file their response will therefore commence on the first calendar day following the day of service of the notification of the Immediate Appeal in Khmer.

### III. DISPOSITION

#### FOR THE FOREGOING REASONS, THE SUPREME COURT CHAMBER:

Grants the Co-Prosecutors’ Request insofar as to allow the filing of their response in Khmer and English or French to the Immediate Appeal within 15 calendar days, which commence on the first calendar day following the day of service of the notification of NUON Chea’s Immediate Appeal in Khmer.

Phnom Penh, 18 October 2011

Officer in Charge of the Supreme Court Chamber



*[Signature]*  
Judge MONG Monichariya