



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

អង្គបុរេជំនុំជម្រះ
Pre-Trial Chamber
Chambre Preliminaire

D360/5/3

In the name of the Cambodian people and the United Nations and pursuant to the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea

Case File N° 004/2/07-09-2009-ECCC/OCIJ

THE PRE-TRIAL CHAMBER

Before: Judge PRAK Kimsan, President
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge Kang Jin BAIK
Judge HUOT Vuthy

Date: 22 January 2019

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PUBLIC

DECISION ON REQUESTS FOR EXTENSION OF TIME AND PAGE LIMITS FOR RESPONSES AND REPLIES RELATING TO THE APPEALS AGAINST THE CLOSING ORDERS IN CASE 004/2

Co-Prosecutors

CHEA Leang
Nicholas KOUMJIAN

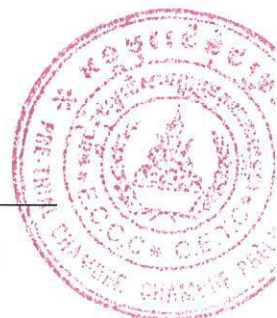
Co-Lawyers for

MOM Luch
Richard ROGERS
Göran SLUITER

Civil Party Lawyers

CHET Vanly
HONG Kimsuon
KIM Mengkhy
LOR Chumthy
SAM Sokong
SIN Soworn
TY Srinna
VEN Pov

Laure DESFORGES
Isabelle DURAND
Emmanuel JACOMY
Martine JACQUIN
Daniel MCLAUGHLIN
Nushin SARKARATI



THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia is seised of “█’s Request for Extension of Time and Page Limits for His Response to the International Co-Prosecutor’s Appeal of the Order Dismissing the Case Against █ (D359) and any Related Replies” dated 10 January 2019¹ and of the “International Co-Prosecutor’s Extension Request for His Response and Reply Relating to the Appeals in Case 004/2” dated 11 January 2019² (collectively “Requests”).

1. On 16 August 2018, the International Co-Investigating Judge issued a Closing Order (Indictment)³ and the National Co-Investigating Judge issued a Closing Order (Dismissal).⁴ On 8 November 2018, the Pre-Trial Chamber extended the time and page limits for the filing of appeals against the Closing Orders.⁵ On 14 December 2018, the National Co-Prosecutor filed an appeal in Khmer against the Closing Order (Indictment) (“National Co-Prosecutor’s Appeal”).⁶ On 20 December 2018, the Co-Lawyers for █ (“Co-Lawyers”) and the International Co-Prosecutor respectively filed appeals in English against the Closing Order (Indictment) (“█’s Appeal”)⁷ and Closing Order (Dismissal) (“International Co-Prosecutor’s Appeal”).⁸ On 10 and 11 January 2019, pursuant to the Pre-Trial Chamber’s instructions, the Co-Lawyers and the International Co-Prosecutor filed the Requests.

2. The Co-Lawyers request the authorisation to file a 45-page response to the International-Co Prosecutor’s Appeal within 35 days from notification of its translation and a 15-page reply to any response to █’s Appeal within 15 days from notification of its translation.⁹ They submit that the requested extensions are necessary in order to preserve

¹ Case 004/2/07-09-2009-ECCC/OCIJ (“Case 004/2”), █’s Request for Extension of Time and Page Limits for His Response to the International Co-Prosecutor’s Appeal of the Order Dismissing the Case Against █ (D359) and any Related Replies, 10 January 2019, D359/3/2 (“█’s Request”).

² Case 004/2, International Co-Prosecutor’s Extension Request for His Response and Reply Relating to the Appeals in Case 004/2, 11 January 2019, D360/5/2 (“International Co-Prosecutor’s Request”).

³ Case 004/2, Closing Order (Indictment), 16 August 2018, D360.

⁴ Case 004/2, Order Dismissing the Case Against █, 16 August 2018, D359.

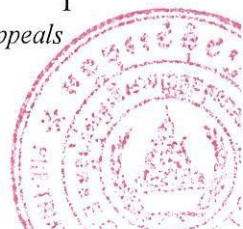
⁵ Case 004/2, Decision on Request for Extension of Time and Page Limit for █’s Appeal Against the Closing Order (Indictment), 8 November 2018, D360/7.

⁶ Case 004/2, National Co-Prosecutor’s Appeal Against the International Co-Investigating Judge’s Closing Order (Indictment), 14 December 2018, D360/8/1.

⁷ Case 004/2, █’s Appeal Against the International Co-Investigating Judge’s Closing Order (Indictment), 20 December 2018, D360/5/1.

⁸ Case 004/2, International Co-Prosecutor’s Appeal of the Order Dismissing the Case Against █ (D359), 20 December 2018, D359/3/1.

⁹ █’s Request, para. 22.



█'s fundamental right to an effective defence, notably in view of the lengths of the appeals and the number of appeal grounds raising a broad range of complex legal and factual issues.¹⁰ They further ask permission to file their response and reply in English first, with Khmer translation to be filed at the earliest opportunity.¹¹

3. The International Co-Prosecutor requests the authorisation to file an 80-page consolidated response to the █'s and the National Co-Prosecutor's Appeals, as well as a 45-page consolidated reply to any response regarding his Appeal, respectively within 30 and 15 days from notification of translation of the Appeals and response(s).¹² He submits that such extensions are essential considering the length of █'s appeal and annexes, the alleged errors concerning the facts and standard of proof, and the novel legal issues that need to be addressed.¹³ He further requests permission to file in English first, with Khmer translation to follow.¹⁴ Finally, he solicits leave to revisit the issue of time and page limits to reply, if necessary, after the responses are filed.¹⁵

4. Pursuant to Internal Rules 39(2) and (4), the Pre-Trial Chamber may set and/or extend any time limits for the filing of documents relating to an appeal. It may also, based on Article 5(4) of the Practice Direction on Filing of Documents, extend the page limit of a document in exceptional circumstances.

5. At the outset, the Pre-Trial Chamber considers that authorising the filing of consolidated responses and replies is not appropriate in the present case and that the parties should address each appeal and response individually. Turning to the page and time limits, the Pre-Trial Chamber finds it justified, in light of the length and complexity of the Appeals, and in order to balance fair trial rights and efficiency, to grant all parties an extension of 20 pages and 20 days to file their responses, and of 10 days to file replies, with time limits running from the notification of translation of each appeal and response. No further extension will be granted.

¹⁰ █'s Request, paras 19-21.

¹¹ █'s Request, para. 22.

¹² International Co-Prosecutor's Request, para. 18.

¹³ International Co-Prosecutor's Request, paras 12-15.

¹⁴ International Co-Prosecutor's Request, para. 18.

¹⁵ International Co-Prosecutor's Request, paras 17-18.



FOR THESE REASONS, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:

GRANTS the Requests in part;

ALLOWS the parties to file 50-page responses within 30 days from the notification of translation of each Appeal;

ALLOWS the parties to file 30-page replies within 15 days from the notification of translation of each response;

ALLOWS the parties to file responses and replies in one language with translation to follow;

INSTRUCTS the ITU to ensure that requested translations are issued within 20 days from the filing of the responses and 15 days from the filing of the replies;

DENIES the remainder of the Requests.

In accordance with Internal Rule 77(13), this decision is not subject to appeal.

Phnom Penh, 22 January 2019

President

Pre-Trial Chamber



(Handwritten signatures of PRAK Kimsan, Olivier BEAUVALLET, NEY Thol, Kang Jin BAIK, and HUOT Vuthy)

PRAK Kimsan Olivier BEAUVALLET NEY Thol Kang Jin BAIK HUOT Vuthy