



ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះតុលាការកំពូល

Supreme Court Chamber

Chambre de la Cour suprême

សំណុំរឿងលេខ: ០០៤/១/១៩-កញ្ញា-២០០៧-អ.វ.ត.ក/អ.ជ.ត.ក

Case File/Dossier N°. 004/1/07-09-2009-ECCC/SC

Before: Judge KONG Srim, President
Judge Chandra Nihal JAYASINGHE
Judge SOM Sereyvuth
Judge Florence Ndepele MWACHANDE-MUMBA
Judge MONG Monichariya
Judge Maureen Harding CLARK
Judge YA Narin

Date: 4 October 2021
Language(s): Khmer/English
Classification: PUBLIC

DECISION ON INTERNATIONAL CO-PROSECUTOR’S REQUEST FOR EXTENSION OF TIME TO FILE HER SUBMISSION CONCERNING THE PRE-TRIAL CHAMBER’S CLOSING ORDER CONSIDERATIONS IN CASE 004

Filed by:
Brenda HOLLIS
International Co-Prosecutor

Co-Lawyers for YIM Tith
SO Mosseny
Suzana TOMANOVIĆ

Copied to:
CHEA Leang
National Co-Prosecutor

All Civil Party Lawyers in Case 004

1. **THE SUPREME COURT CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea between 17 April 1975 and 6 January 1979 (“Supreme Court Chamber” or “Chamber”, and “ECCC”, respectively) is seised of the “International Co-Prosecutor’s Request for Extension of Time to File Her Submission Concerning the Pre-Trial Chamber’s Closing Order Considerations in Case 004” (“Request for Extension of Time”).¹

A. BACKGROUND

2. On 8 September 2021, the Pre-Trial Chamber issued a Consolidated Decision on the requests of the International Co-Prosecutor and the Co- Lawyers for MEAS Muth concerning the proceedings in Case 003 (“PTC Consolidated Decision”).²

3. On 14 September 2021, the International Co-Prosecutor transmitted her request for leave to file a submission in only English first with a Khmer translation to follow.³ The Chamber denied this request on 22 September 2021, finding that no exceptional circumstances were presented to warrant such a request.⁴

4. On 17 September 2021, the Pre-Trial Chamber issued its Considerations on Appeals Against Closing Order in Case 004 (“Case 004 Considerations”).⁵

5. On 23 September 2021, the International Co-Prosecutor transmitted via email the present Request for Extension of Time to file her submission concerning the Pre-Trial Chamber’s Case 004 Considerations.⁶ On the same day, Co-Lawyers for YIM Tith responded to the International Co-Prosecutor’s Request for Extension of Time by email, raising objections.

¹ Request for extension of time, dated 23 September 2021.

² Consolidated Decision on the requests of the International Co-Prosecutor and the Co- Lawyers for MEAS Muth concerning the proceedings in Case 003 (“PTC Consolidated Decision”), 8 September 2021, D271/5 & D272/3.

³ Request, dated 14 September 2021.

⁴ Decision on International Co-Prosecutor’s Request to file in one language, 22 September 2021.

⁵ Case 004 Considerations, 17 September 2021, D381/45 & D382/43

⁶ Request for extension of time, 23 September 2021.

B. SUBMISSIONS

6. The International Co-Prosecutor requests permission from the Supreme Court Chamber to file a submission in Case 004 on 8 November 2021, in both Khmer and English.⁷ The proposed submission in Case 004 (like the proposed submission in Case 003) seeks to obtain legal certainty and clarification regarding the finality of Case 004 in its pre-trial phase, the next steps in the case, and the necessity to uphold the integrity of the ECCC legal framework.⁸ She asserts that her submission in Case 004 deals with “complex and fundamental matters that are critical to the proper and impartial administration of justice”.⁹ As a result, a thorough examination of the Case 004 Considerations is required hence that her request for extension of time to file should be granted.¹⁰

C. APPLICABLE LAW

7. Article 8.1 of the Practice Directions on Filing of Documents before the ECCC (“Practice Directions”) states that “[u]nless 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.”

8. Rule 39(2) states that “[u]nless these IRs provide otherwise and in compliance with the applicable Practice Directions, the judges may set time limits for the filing of pleadings, written submissions and documents relating to a request or appeal, taking into account the circumstances of the case, especially whether a Charged Person or Accused is in detention.”

D. DISCUSSION

9. The International Co-Prosecutor unambiguously cites identical reasons for filing submissions in Case 003 and 004, namely, to “seek legal certainty and clarity regarding the finality of the pre-trial phase, next steps for this case and to uphold the integrity of the ECCC’s

⁷ Request for extension of time, para. 8.

⁸ Request for extension of time, para. 4.

⁹ Request for extension of time, para. 5.

¹⁰ Request for extension of time, para. 5.

legal framework.”¹¹ She also argues that there is a need for a thorough examination of the Case 004 Considerations and adds that the Case 004 submission concerns complex and fundamental issues that are essential to the good and fair administration of justice.¹²

10. The Chamber refers to its Decision on the International Co-Prosecutor's Request to File in One Language, which was issued on 22 September 2021, which directed her to file her application in both Khmer and English at the same time.¹³ The Chamber's position remains unchanged.

11. This Chamber is unable to examine the International Co-Prosecutor's Request for Extension of Time under Rule 39 (2) until the full nature of her application is clarified, which can only happen when it is received. The International Co-Prosecutor may in her discretion file any application to the Chamber in both languages, at the same time.

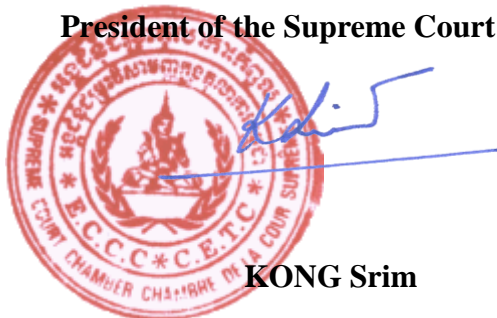
E. DISPOSITION

For the foregoing reasons, the Supreme Court Chamber:

PERMITS the International Co-Prosecutor to file her submission, in both Khmer and English simultaneously.

Phnom Penh, 4 October 2021

President of the Supreme Court Chamber



KONG Srim

¹¹ Request for extension of time, para.4.

¹² Request for extension of time, para.5.

¹³ Decision on International Co-Prosecutor's Request to file in one language, 22 September 2021.