



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

សំណុំរឿងលេខ: ០០៣/០៧-០៩-២០០៩-អ.វ.ត.ក/អ.ជ.ត.ក

Case File/Dossier N°. 003/07-09-2009-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:

22 September 2021

Language(s):

Khmer/English

Classification:

PUBLIC

DECISION ON INTERNATIONAL CO-PROSECUTOR'S REQUEST TO FILE IN ONE LANGUAGE

Filed by:

Brenda HOLLIS

International Co-Prosecutor

Co-Lawyers for MEAS Muth

ANG Udom

Michael G. KARNAVAS

Copied to:

CHEA Leang

National Co-Prosecutor

All Civil Party Lawyers in Case 003

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 seized of the “International Co-Prosecutor’s request to file in one language” (“Request”)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 notification.³

B. SUBMISSIONS

4. The International Co-Prosecutor seeks leave from the Supreme Court Chamber to file a submission in English on 8 October 2021 with a Khmer translation to follow on 18 October 2021, which would allow the filing to fall within the required 30 days from the notification for the PTC Consolidated Decision.⁴ She submits that the envisaged submissions concern the “end of any action by the Pre-Trial Chamber” in Case 003.⁵ The purpose of the submission is to seek legal certainty and clarity regarding the finality of the pre-trial phase of Case 003, the next steps for the case and the need to uphold the integrity of the ECCC legal framework.⁶ She asserts that exceptional circumstances warrant a filing in one language since her submission is lengthy, requiring in depth research and concerns complex and fundamental issues for the good and fair administration of justice.⁷ She also observes that the UN and Cambodian holidays for Pchum Ben which falls on 6 and 7 October 2021, is of special significance, to all Cambodia, including the translators of the Office of the Co-Prosecutors, with one who has pre-approved

¹ International Co-Prosecutors’ Request to file in one language, dated 14 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 Request, para. 1.

⁵ Request, para. 2.

⁶ Request, para. 3.

⁷ Request, para. 4.

week long leave to commemorate Pchum Ben.⁸ For these reasons, she requests the Chamber to permit the filing of her submissions in one language and for an expedited decision to be delivered, possibly with an advance notification via email.⁹

C. APPLICABLE LAW

5. Article 7.1 of the Practice Direction on Filing of Documents before the ECCC (“Practice Direction”) states “All documents shall be filed in Khmer as well as in English or French.”

6. Article 7.2 of the Practice Direction states that “In exceptional circumstances, the Co-Investigating Judges or a Chamber of the ECCC may authorize a party to file a document in French or in English in the first instance, provided however that a Khmer translation must be filed before the Chamber at the first opportunity.

D. DISCUSSION

7. At the outset, the Supreme Court Chamber emphasizes that both the national and international components of the judicial process are necessary to participate in a successful cooperation to achieve the ECCC’s statutory aims, as specified in the ECCC legal framework and mission. To that purpose, the parties shall make every effort to comply with the general requirement of simultaneous bilingual filings. Filings in any of the three official languages of the ECCC are attributed equal authoritativeness, as implied by Article 26(2) of the Agreement, Article 45 new of the ECCC law and Article 7.1 of the Practice Direction.

8. The International Co-Prosecutor petitions the Supreme Court Chamber for leave to file a submission in English no later than 8 October 2021, with Khmer version to follow on 18 October 2021.¹⁰ She submits that exceptional circumstances exist that necessitate her to file in only one language because her submissions are lengthy and must be translated by two Khmer translators in five days.¹¹ The translators must commemorate Pchum Ben and one of them has been granted pre-approved leave.¹²

⁸ Request, para. 5.

⁹ Request, para. 6.

¹⁰ Request, para. 1.

¹¹ Request, para. 4.

¹² Request, para. 5.

9. The Chamber does not consider these reasons to present “exceptional circumstances” as described in Article 7.2 of the Practice Direction. Consequently, the Chamber rejects the International Co-Prosecutor's request to file in English alone first.

10. This decision is made without prejudice to any future filings which shall be made in both Khmer and English, simultaneously.

E. DISPOSITION

11. For the foregoing reasons, the Supreme Court Chamber:

REJECTS the International Co-Prosecutor’s Request.

DIRECTS that the application is filed simultaneously in both languages.

Phnom Penh, 22 September 2021

President of the Supreme Court Chamber



KONG Srim