

**BEFORE THE SUPREME COURT CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAILS**

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**CO-PROSECUTORS' REQUEST TO FILE APPEAL  
RESPONSE IN ONE LANGUAGE**

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**Distribute to:**

**Supreme Court Chamber**  
Judge KONG Srim, President  
Judge A. KLONOWIECKA-MILART  
Judge SOM Sereyvuth  
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### I. Introduction

1. Pursuant to Article 7.2 of the Practice Direction,<sup>1</sup> the Co-Prosecutors hereby respectfully request permission from the Supreme Court Chamber (“Chamber”) to file their consolidated response to Nuon Chea’s and Khieu Samphan’s appeal briefs (“Accused Appeal Briefs”) in English, with the Khmer translation to follow at the first opportunity. As detailed below, the Co-Prosecutors submit that exceptional circumstances exist that warrant their request.

### II. Procedural History

2. On 31 October 2014, the Chamber ordered that the Accused Appeal Briefs be filed no later than 29 December 2014, *i.e.*, 90 days after the notification of their notices of appeal.<sup>2</sup> The Chamber further allowed for the Accused Appeal Briefs to be filed in either English or French only, with the Khmer versions to follow as soon as possible thereafter.<sup>3</sup> In the same decision, the Chamber ordered the Co-Prosecutors to file their consolidated response no later than 30 days after the notification of the Khmer versions of the Accused Appeal Briefs, whichever is notified last.<sup>4</sup>
3. The Accused Appeal Briefs were filed on 29 December 2014 in English and French, respectively. On 8 January 2015, the Head of the Interpretation and Translation Unit (“ITU”) informed the Co-Prosecutors that the Khmer translations of the Accused Appeal Briefs are expected to be completed on 27 February 2015.<sup>5</sup> Based on this estimate, the deadline for the Co-Prosecutors to file their consolidated response would be 27 March 2015. The Head of the ITU further advised that his unit would require at least 40 working days to translate the Co-Prosecutors’ consolidated response from English to Khmer.<sup>6</sup> Therefore, to meet the current estimated deadline for filing in both languages, the Co-Prosecutors will have to submit the final English version of their consolidated response to ITU by 2 February 2015.

### III. Argument

4. Requiring the Co-Prosecutors to submit the final English version of their consolidated response almost a month before receiving a Khmer translation of the Accused Appeal

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<sup>1</sup> Practice Direction on the Filing of Documents before the ECCC, ECCC/01/2007/Rev.8.

<sup>2</sup> **F9** Decision on Motions for Extensions of Time and Page Limits for Appeal Briefs and Responses, 31 October 2014 (“Second Decision on Requests for Time and Page Extensions”), para. 23.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> Email from Interpretation and Translation Unit, 8 January 2014.

<sup>6</sup> *Ibid.*

Briefs effectively precludes the Co-Prosecutors from having a Khmer translation of the appeals before finalizing their response. The national side of the Office of the Co-Prosecutors will be entirely hampered in their ability to contribute to the consolidated response<sup>7</sup> as they will not have access to the Khmer translation of the Accused Appeal Briefs until after the Co-Prosecutors' English consolidated response is due.

5. Unlike the Accused defence teams who boycotted trial proceedings and thus could focus all their efforts on preparing their individual appeals, the Co-Prosecutors enjoy no such luxury. In seeking to ensure the implementation of the Supreme Court Chamber's order that the trial of Case 002/02 begin as soon as possible, the Co-Prosecutors are now fully engaged in Case 002/02 trial proceedings. The Co-Prosecutors are also engaged in very time demanding tasks associated with the ongoing investigations in Cases 003 and 004 and ensuring that all relevant information is disclosed to the Trial Chamber and defence teams in Case 002/02. Accordingly, the Co-Prosecutors submit that exceptional circumstances exist to grant this request.
6. As noted above, the Chamber has already granted Nuon Chea's and Khieu Samphan's requests to file their respective appeal briefs in one language, based on the size and complexity of the legal issues they intended to raise.<sup>8</sup> The Chamber further granted Nuon Chea and Khieu Samphan significant additional time and page extensions for their Appeal Briefs.<sup>9</sup> Further, this Chamber has also authorized that Nuon Chea file his response to the Co-Prosecutor's Appeal in one language as a result of the time required to complete the Khmer translation of the draft English response.<sup>10</sup>
7. While this request is limited to seeking permission to file the consolidated appeal response in one language, the Co-Prosecutors wish to indicate that it is certainly possible that they will make a future request seeking a time or page extension for their consolidated response. The Co-Prosecutors goal is to expedite the appeal process and submit a succinct response as expeditiously as possible. Thus the Co-Prosecutors will only seek a time or page extension if it is absolutely necessary to an effective response. As the Co-Prosecutors are still in an early phase of studying the defence appeals, and particularly in the case of the appeal of Khieu Samphan, trying to understand what are

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<sup>7</sup> In particular, as the Accused Appeals raise several issues of Cambodian law, the lack of a Khmer translation is particularly damaging to the Co-Prosecutors' ability to fully and effectively respond.

<sup>8</sup> **F9** Second Decision on Requests for Time and Page Extensions, *supra* note 19 at para. 23.

<sup>9</sup> *Ibid.*

<sup>10</sup> Email from Supreme Court Legal Officer and Greffier, 16 January 2015.

the grounds of appeal, it is too early to determine if a time or page extension will be absolutely necessary.

#### IV. Relief Requested

8. For the foregoing reasons, the Co-Prosecutors submit that exceptional circumstances exist and consequently request that the Chamber authorise the Co-Prosecutors to file their consolidated response in English, with a Khmer translation to follow at the first opportunity.

Respectfully submitted,

Date	Name	Place	Signature
26 January 2015	CHEA Leang Co-Prosecutor	Phnom Penh	
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