

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

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**CO-PROSECUTORS' AND CIVIL PARTY LEAD CO-LAWYERS' REQUEST FOR
ADDITIONAL TIME FOR EXAMINATION FOR SCW-5**

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Before:

Supreme Court Chamber

Judge KONG Srim, President
Judge A. KLONOWIECKA-MILART
Judge SOM Sereyvuth
Judge C.N. JAYASINGHE
Judge MONG Monichariya
Judge YA Narin
Judge Florence Ndepele MWACHANDE-
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I. INTRODUCTION AND PROCEDURAL BACKGROUND

1. The Co-Prosecutors and the Civil Party Lead Co-Lawyers hereby submit a joint request for equal time to examine SCW-5 following the grant of additional time to each defence team by the Supreme Court Chamber on 17 June 2015.¹
2. On 29 May 2015, the Supreme Court Chamber granted Nuon Chea Defence's request to call additional witnesses and to admit their associated Witness Records of Interview into evidence.² On 2 June 2015, the Supreme Court Chamber informed the parties of the time allocation for the questioning of the witnesses. For each of the three witnesses, the Co-Prosecutors and Civil Parties were granted a combined time equal to the combined time allocated to Khieu Samphan and Nuon Chea (*i.e.*, 1.5 hours).³ The Supreme Court Chamber invited the parties to file their observations on the timetable by 5 June 2015.⁴ The Supreme Court Chamber did not provide for responses to the other parties' observations.
3. On 4 June 2015, Nuon Chea filed observations in relation to the Supreme Court Chamber's order and timetable requesting, *inter alia*, that additional time be provided to them to examine SCW-5.⁵ On 5 June 2015, Khieu Samphan filed observations, and also requested, *inter alia*, additional time to examine SCW-5.⁶ On 17 June 2015, the Supreme Court Chamber issued its Directions on the Conduct of the Hearing, wherein they granted an additional hour to Nuon Chea and 30 additional minutes to Khieu Samphan to question SCW-5.⁷ The Supreme Court Chamber did not extend commensurately the time allocated to the Co-Prosecutors and Civil Parties to question SCW-5.

II. SUBMISSIONS

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- ¹ Directions on the Conduct of the Hearing, **F26**, 17 June 2015.
 - ² Decision on Part of Nuon Chea's Requests to Call Witnesses on Appeal, **F2/5**, 29 May 2015.
 - ³ Annex – Timetable for the Hearing, **F24.1**.
 - ⁴ Order Scheduling a Hearing, **F24**, 2 June 2015.
 - ⁵ NUON Chea's Observations on the Hearing Schedule for the Examination of Witnesses SCW-3, SCW-4, and SCW-5, **F24/8**, 4 June 2015.
 - ⁶ Observations de la Defense de M. KHIEU Samphan sur le calendrier des audiences consacrees a la deposition de SCW-3, SCW-4 et SCW-5, **F24/9**, 5 June 2015.
 - ⁷ Directions on the Conduct of the Hearing, **F26**, 17 June 2015, p.3.

4. The ECCC's Internal Rules explicitly require that proceedings "preserve a balance between the rights of the parties."⁸ The Supreme Court Chamber recognised the need for this fundamental balance, as well as the overarching principle of equality of arms, when initially allocating equal time to Nuon Chea and Khieu Samphan on the one hand, and the Co-Prosecutors and Lead Co-Lawyers on the other, to question each of the witnesses.⁹
5. As a result of the Supreme Court Chamber's extension of the time allocated to each Accused to question SCW-5, without commensurate extension of the time allocated to the Co-Prosecutors and Civil Parties, the Accused combined have twice the amount of time to question SCW-5 as the Co-Prosecutors and Civil Parties combined. This disproportionate allocation of time is not consistent with the balance that must be kept between parties, nor with principles of equality of arms. Moreover, it stands to reason that the more time the Accused have to elicit evidence from SCW-5, the greater amount of time the Co-Prosecutors and Civil Parties will need to question the witness in order to fully explore the quality of that evidence as well as other relevant topics.
6. Therefore, the Co-Prosecutors and the Lead Co-Lawyers request additional time to question SCW-5 equal to the extension granted to the Accused combined, *i.e.*, an additional hour and a half.

⁸ Rule 21(1)(a).

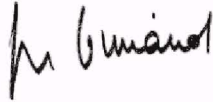

⁹ Order Scheduling a Hearing, **F24**, 2 June 2015; *see also* Annex – Timetable for the Hearing, **F24.1**. In addition to this, the Supreme Court Chamber has noted that the although Civil Parties are not Appellants, their standing as a party to the proceeding implies the entitlement of all rights generically conferred upon a "party" by governing principles and rules, provided that "this does not undermine the principle of equality of arms and the effective management of the proceedings". *See* Order Scheduling a Hearing, **F24**, 2 June 2015, pp. 2-3.

III. REQUEST

7. **WHEREFORE**, the Co-Prosecutors and Civil Party Lead Co-Lawyers respectfully request that the Supreme Court Chamber:

- (1) **GRANT** the request for an additional hour and a half to the Co-Prosecutors and the Lead Co-Lawyers to examine SCW-5.

Respectfully submitted,

Date	Name	Place	Signature
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