



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 Préliminaire

D236/1/1/5

Case File N° 004/07-09-2009-ECCC/OCIJ (PTC20)

Before: Judge PRAK Kimsan, President
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge Steven J. BWANA
Judge HUOT Vuthy

Date: 9 June 2015

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ក្រុង ភ្នំ ពេញ (Date of receipt/Date de réception):	
..... 09 06 2015	
ម៉ោង (Time/Heure):	
..... 15:50	
អគ្គិសនីបន្ទប់សំណុំរឿង/Case File Officer/L'agent charge	
du dossier: SANN PARRA	

CONFIDENTIAL

DECISION ON INTERNATIONAL CO-PROSECUTOR'S REQUEST FOR EXTENSION OF TIME TO RESPOND TO IM CHEAEM'S APPEALS AND ON DEFENCE'S RELATED REQUESTS

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THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) is seised of the “International Co-Prosecutor’s Request for Extension of Time to Respond to Im Chaem’s Appeals” filed on 3 June 2015 (the “Request”).¹

1. On 23 March 2015, the Defence filed “Im Chaem’s Appeal against the International Co-Investigating Judge’s Decision on Her Motion to Reconsider and Vacate Her Summons Date 29 July 2014” (the “Summons Appeal”).² On 2 April 2015, the Defence filed “Im Chaem’s Appeal against the International Co-Investigating Judge’s Decision to Charge Her *in Absentia*” (the “Charging Appeal”).³ On 27 May 2015, the Office of the Co-Prosecutors received notice of the two appeals (together, the “Appeals”) before the Pre-Trial Chamber. By their Request, the International Co-Prosecutor (the “Co-Prosecutor”) requests that an extension of 10 days be granted and the deadline for his responses (together, the “Responses”) to the Appeals be set at 16 June 2015; and to file the Responses in English with the Khmer translation to follow.
2. On 5 June 2015, the Defence filed “Im Chaem’s Response to the International Co-Prosecutor’s Requests for Extensions of Time to Respond to her Appeals” (“Defence Response to the Request”).⁴ The Defence does not oppose the Co-Prosecutor’s Request⁵ and consequently requests an additional five days to file its replies (together, the “Replies”) to the Responses and seeks leave to file the Replies in English first with the Khmer translation to follow.⁶
3. Pursuant to Article 8.3 of the Practice Direction on Filing Documents Before the ECCC (the “Practice Direction”),⁷ “[a]ny response to an application or pleadings shall be filed together with the list of authorities within 10 calendar days of notification of the document to which the participant is responding.” Pursuant to Rule 39(4) of the Internal Rules and Article 8.1 of the Practice Direction, a Chamber may extend any time limit at the request of a party or on their own motion. The Co-Prosecutor submits that the Appeals deal with

¹ D239/1/3.

² D236/1/1/2.

³ D239/1/2.

⁴ D239/1/4 and D236/1/1/4.

⁵ Defence Response to the Request, D236/1/1/4, para. 1.

⁶ Defence Response to the Request, D236/1/1/4, paras. 2, 4.

⁷ Practice Direction ECCC/01/2007/Rev. 8, 10 May 2012.



complex legal issues related the jurisdiction of the Office of the Co-Investigating Judges and the interaction between Cambodian and international law.⁸ The Co-Prosecutor further submits that the failure by the Judicial Police to execute an arrest warrant that they apparently accept as valid⁹ creates a factual situation not envisaged by the drafters of the Internal Rules and Cambodian Code of Criminal Procedure¹⁰ and that the Appeals contain “extensive arguments based upon a wide variety of sources from a multitude of jurisdictions”.¹¹

4. The Pre-Trial Chamber is of the view that the complexity of the legal and factual issues raised in the Appeals constitutes sufficient grounds for an extension of the deadline for the filing of the Responses by the Co-Prosecutor. The Pre-Trial Chamber notes in this regard, also the fact that the Defence does not oppose the Co-Prosecutor’s Request.¹²
5. Further, pursuant to Article 7.1 of the Practice Direction, “[a]ll documents shall be filed in Khmer as well as in English or French.” However, Article 7.2 provides that “[i]n exceptional circumstances, the Co-Investigating Judges or a Chamber of the ECCC may authorise a party to file a document in French or English in the first instance, provided, however, that a Khmer translation must be filed before the Chamber at the first opportunity.” The Co-Prosecutor submits that, as the *Appeals* total 38 pages, the Responses may be of a similar length.¹³ The Co-Prosecutor further submits that, though the Office of the Co-Prosecutors generally produces the Khmer versions of its filings internally, the Office of the Co-Prosecutors will be unable to produce a Khmer translation by the required deadline due to the potential length of the Responses.¹⁴
6. The Pre-Trial Chamber notes the potential total length of the Responses, the complexity of the issues to be addressed therein and the burden this significant body of material would

⁸ Request, para. 4.

⁹ Request, para. 4. *See* Decision to Charge Im Chaem *In Absentia*, 3 March 2015, D239, paras 21-30.

¹⁰ Request, para. 4. *See* Article 25(c) of the Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, 6 June 2003 and Rule 15 of the Internal Rules.

¹¹ Request, para. 5.

¹² Defence Response to the Request, paras. 1 and 4.

¹³ Request, para. 9.

¹⁴ Request, para. 9.



create from a translation perspective, as also submitted in the Appeals.¹⁵ The Pre-Trial Chamber finds that there are exceptional circumstances to authorise the Co-Prosecutor to file the Responses in English first, with the Khmer version to be filed at the earliest opportunity.

7. Given the similarity of the issues faced with and in order to ensure equality in the treatment of parties, the Pre-Trial Chamber finds it reasonable to accept the Defence's request for an additional five days to file any Replies and to file them first in English with the Khmer translation to follow.

THEREFORE, THE PRE-TRIAL CHAMBER HEREBY:

GRANTS all the Requests;

AUTHORIZES an extension of 10 days for the Co-Prosecutor to file Responses to the Appeals by 16 June 2015;

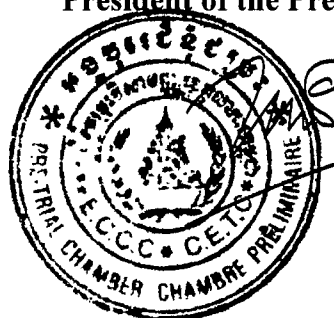
ALLOWS the Co-Prosecutors to file the Responses to the Appeals in English with the Khmer translation to follow

AUTHORIZES an additional five days for the Defence to file any Replies;

ALLOWS the Defence to file any Replies in English with the Khmer translation to follow.

Phnom Penh, 9 June 2015

President of the Pre-Trial Chamber



PRAK KIMSAN

¹⁵ Summons Appeal, para. 6; Charging Appeal, para. 5. See Im Cheam's Request to File Her *In Absentia* Charging Appeal in English First, 1 April 2015, D239/1/1.