



ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
 Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
 Chambres extraordinaires au sein des Tribunaux cambodgiens

Royaume du Cambodge
 Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត

Office of the Co-Investigating Judges
 Bureau des co-juges d'instruction

Case File No: 004/07-09-2009-ECCC-OCIJ

Before: The Co-Investigating Judges

Date: 20 June 2018

Language(s): English and Khmer

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DECISION ON TIME GRANTED TO THE DEFENCE TO RESPOND TO THE FINAL SUBMISSIONS BY THE CO-PROSECUTORS

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1. The National Co-Prosecutor (“NCP”) filed her final submission pursuant to Internal Rule 66 on 31 May 2018 in both English (11 pages) and Khmer (15 pages); the International Co-Prosecutor (“ICP”) filed his 732 page submission on 4 June 2018 in English only. Because of resource constraints, he was not able to file it simultaneously in Khmer within the three months allotted by the Internal Rules.
2. The drafting work on finalising the closing order can only begin once the Defence for Yim Tith (“Defence”) have filed their response, the deadline for which will only start running once the Khmer translation of the ICP’s submission has been notified, which, based on the Interpretation and Translation Unit’s (“ITU”) estimate of 7 June 2018, is expected on 20 August 2018.¹
3. The Defence have requested three months from the date of notification of the fully translated Khmer version of the ICP’s final submission, including footnotes, to respond thereto (“Request”).² They argue that the ICP’s Case 004 final submission is larger and more complex than those filed in Case 004/1 and Case 004/2, that they cannot properly proceed on the basis of the Khmer translation with English footnotes, and that Yim Tith requires a full translation and adequate time in order to provide detailed instructions to counsel. Without a precise estimate as to the filing of the fully translated Khmer version, it is difficult for them to accurately gauge by when they will be able to submit their response.³
4. On 13 June 2018, the ICP indicated that he did not intend to respond to the Request.⁴ The NCP did not respond to the question from the staff of the International Co-Investigating Judge in this regard.
5. The Court’s Records and Archives Unit⁵ provided us with an overview of the final submissions by the ICP in all three cases before us, including the number of annexes and authorities, as well as their total page numbers:

Case 003			
Main Document	D256/7	1	944
Annexes		14	47
Authorities		263	2022

Case 004/2			
Main Document	D351/5	1	594
Annexes		4	17
Authorities		231	1946

Case 004			
Main Document	D378/2	1	732
Annexes		20	335

¹ Case File No. 004-D378/4.1, *Email from Chanmony Korm to Charles Zama and Michael Bohlander*, 7 June 2018.

² Case File No. 004-D378/3, *Yim Tith’s Estimate Regarding Time Required to Respond to the International Co-Prosecutor’s Final Submission*, 12 June 2018.

³ *Ibid.*, paras 5-10.

⁴ Case File No. 004-D378/4.2, *Email from Nisha Patel to Mark Webster*, 13 June 2018.

⁵ Case File No. 004-D378/4.3, *Email from Chanthan Phok to OCIJ Greffier Chanlyda Chhay*, 5 June 2018.



Authorities	271	2013
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6. The case that most closely matches Case 004 is Case 003 in terms of the length of ICP submissions; in that case the Defence was given a total of 80 days to respond in English only. Given that the primary measure of the time for a response is the length and complexity of the ICP's final submission, and as the ICP's Case 004 final submission relates to a greater number of crime sites and charges than in Case 003, we consider that additional time to that granted in Case 003 is appropriate, and that three months from the notification of the Khmer translation is a sufficient amount of time for the Defence to file their response.
7. In the interest of judicial economy, we permit the Defence to file any response to the NCP's submission at the same time. Given the length of the NCP's submission and the fact that it requests the dismissal of "*all allegations*", there is no need to increase the overall time for the response.
8. Because the Defence suffer from the same logistical constraints as the Prosecution, we will allow them to respond in English only, with a Khmer translation to follow as soon as possible, consistent with previous practice.

FOR THE FOREGOING REASONS, WE⁶:

9. **GRANT THE DEFENCE** three months to respond to the NCP's and ICP's final submissions in English only, counting from the date of the notification of the full Khmer translation of the ICP's final submission, with a translation into Khmer to follow as soon as possible.

Dated 20 June 2018, Phnom Penh

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Co-Investigating Judges
Co-juges d'instruction



YOU Bunleng **Michael BOHLANDER**

⁶ While the Co-Investigating Judges sign this decision jointly, the National Co-Investigating Judge wishes to recall that he does not recognize or accept as valid any documents created and/or filed by former International Reserve Co-Investigating Judge Laurent Kasper-Ansermet, and hence the Case File document numbering should run from the last document put on the Case File by former Co-Investigating Judge Blunk and not count any documents filed by Judge Kasper-Ansermet.