

**BEFORE THE PRE-TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 004/07-09-2009-ECCC/OCIJ (PTC61) **Party Filing:** The Defence for YIM Tith

Filed to: Pre-Trial Chamber

Original language: ENGLISH

Date of document: 4 October 2019

CLASSIFICATION

**Classification of the document
suggested by the filing party:**

CONFIDENTIAL

**Classification by OCIJ
or Chamber:**

សាធារណៈ/Public

Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:



REQUEST TO FILE YIM TITH'S REPLY TO THE INTERNATIONAL CO-PROSECUTOR'S RESPONSE TO YIM TITH'S REQUEST FOR EXTENSION OF PAGE AND TIME LIMITS FOR HIS APPEAL OF THE CLOSING ORDERS IN ONE LANGUAGE

Filed by:

The Co-Lawyers:

SO Mosseny
Suzana TOMANOVIĆ

Distribution to:

Pre-Trial Chamber:

Judge PRAK Kimsan
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge BAIK Kang Jin
Judge HUOT Vuthy
Reserve Judge PEN Pichsaly
Reserve Judge Steven J. BWANA

Co-Prosecutors:

CHEA Leang
Brenda J. HOLLIS

All Civil Parties in Case 004

Mr YIM Tith, through his Co-Lawyers ('the Defence'), hereby files the following request ('Request') to file *Yim Tith's Reply to the International Co-Prosecutor's Response to Yim Tith's Request for Extension of Page and Time Limits for His Appeal of the Closing Orders* ('Reply') in English only, with the Khmer translation to follow.

I. PROCEDURAL HISTORY

1. On 17 September 2019, the Defence filed *Yim Tith's Request for Extension of Page and Time Limits for His Appeal of the Closing Orders*.¹
2. On 25 September 2019, the International Co-Prosecutor filed the *International Co-Prosecutor's Response to Yim Tith's Request for Extension of Page and Time Limits for His Appeal of the Closing Orders*.²

II. APPLICABLE LAW

3. Article 7 of the Practice Direction ECCC/01/2007/Rev.8 states:

Article 7: Language and Translation of documents

7.1 All documents shall be filed in Khmer as well as in English or French. Parties may seek translation into the other language. Such translation will be provided at a later time.

7.2 In exceptional circumstances, the Co-Investigating Judges or a Chamber of the ECCC may authorise 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.

7.3 Any party who has notified the relevant greffiers under Article 2.2 shall duly file all documents in Khmer and the other chosen official language(s). The Court Management Section shall ensure the timely translation of documents filed in accordance with this Practice Direction.

7.4 Where the filing party is the author of documents, the filing party shall submit each language version of the document separately, provided

¹ *Yim Tith's Request for Extension of Page and Time Limits for His Appeal of the Closing Orders*, 17 September 2019, D381/8.

² *International Co-Prosecutor's Response to Yim Tith's Request for Extension of Page and Time Limits for His Appeal of the Closing Orders*, 25 September 2019, D381/13.

that where there are terms which require precise definition in another language, such terms shall be stated in brackets.

4. Article 8 of the Practice Direction ECCC/01/2007/Rev.8 states:

Article 8: Time Limits for pleadings and applications before the Chambers

8.1 Unless otherwise provided in the Internal Rules or this Practice Direction or ordered by a Chamber of the ECCC, pleadings and applications shall be filed with the greffier of the Chamber hearing the case together with the relevant authorities in accordance with the following timetable, subject to the right in Rule 39 of the Internal Rules to request an extension of time limits.

8.2 A Chamber may fix time limits for the filing of an application or pleadings. Where a date for a Court hearing has already been fixed, the application or applicant's pleading shall be filed at least 30 calendar days prior to the Court hearing.

8.3 Any response to an application or pleadings shall be filed together with any list of authorities within 10 calendar days of notification of the document to which the participant is responding.

8.4 A reply to a response shall only be permitted where there is to be no oral argument on the request, and such reply shall be filed within 5 calendar days of notification of the response to which the participant is replying.

8.5 Except as otherwise directed by the Co-Investigating Judges or a Chamber of the ECCC, time limits commence on the first calendar day following the day of service of the Notification of the document in Khmer and one other official language of the ECCC. Exceptionally, the Co-Investigating Judges or a Chamber may decide that the time limits commence on the first calendar day following the day of filing in all three languages.

III. REQUEST



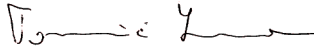
5. The Defence note that Article 7.2 of the *Practice Direction ECCC/01/2007/Rev.8* allows a Chamber to authorise filing in one language. The Practice Direction does not state that parties must file a separate request asking to file in one language. The Defence files the present Request in accordance with established practice and in the

absence of any specific guidance in the Internal Rules ('Rules'), Practice Direction or memoranda issued by the PTC.³

6. The Interpretation and Translation Unit ('ITU') is unable to deliver the translation within the filing deadline. The Defence submitted the English version of the filing to ITU on 4 October 2019, and ITU informed the Defence they would 'deliver the translation on Monday 7 October before COB.'⁴ The Defence took all appropriate steps to endeavour to file the Reply in two languages.

WHEREFORE, for all the reasons stated herein, the Defence respectfully requests the Pre-Trial Chamber to allow the Defence to file the Reply in English only until the ITU are able to deliver the Khmer translation.

Respectfully submitted,

SO Mosseny
Suzana TOMANOVIĆ

Co-Lawyers for Mr YIM Tith

Signed in Phnom Penh, Kingdom of Cambodia on this 4th day of October, 2019.

³ See for example *Appeal Against Decision on Ao An's Fifth Request for Investigative Action*, 9 December 2015, D260/1/1/2, para. 5 and *Appeal Against Order on Ao An's Responses D193/47, D193/49, D193/51, D193/53, D193/56 and D193/60*, 15 January 2016, D284/1/2, para. 6.

⁴ Email from Interpretation and Translation Unit to the Defence, 'Translation of Motion', 4 October 2010.