



**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

**អង្គប្រជុំជម្រះ**  
Pre-Trial Chamber  
Chambre Preliminaire

D382/26

*In the name of the Cambodian people and the United Nations and pursuant to the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea*

Case File N° 004/07-09-2009-ECCC/OCIJ (PTC61)

**Before:** Judge PRAK Kimsan, President  
Judge Olivier BEAUVALLET  
Judge NEY Thol  
Judge Kang Jin BAIK  
Judge HUOT Vuthy

**Date:** 6 January 2019

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**PUBLIC**

**DECISION ON REQUESTS FOR EXTENSIONS OF PAGE AND TIME LIMITS FOR RESPONSES RELATING TO APPEALS IN CASE 004**

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**Co-Lawyers  
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**THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) is seised of the “YIM Tith’s Urgent Request for Extension of Page and Time Limits for His Responses to the Appeals of the Closing Orders”<sup>1</sup> dated 11 December 2019 and the “International Co-Prosecutor’s Request for Extension of Her Response and Reply relating to the Appeals in Case 004”<sup>2</sup> dated 16 December 2019 (collectively, the “Requests”).

1. On 28 June 2019, the Office of the Co-Investigating Judges issued two separate conflicting Closing Orders in Case 004. While the National Co-Investigating Judge issued his “Order Dismissing the Case against YIM Tith” (the “Dismissal Order”)<sup>3</sup> in Khmer, the International Co-Investigating Judge issued his “Closing Order”,<sup>4</sup> in English (collectively the “Closing Orders”).
2. The Khmer translation of the International Co-Investigating Judge’s Closing Order was filed on 14 August 2019 and notified on 15 August 2019. The English translation of the National Co-Investigating Judge’s Dismissal Order was filed and notified on 5 September 2019.
3. On 26 September 2019, the Pre-Trial Chamber ordered a suspension of the time limit for the Parties to file their appeals against the Closing Orders in Case 004 until the notification of the Interpretation and Translation Unit’s corrected English translation of the National Co-Investigating Judge’s Dismissal Order.<sup>5</sup>
4. On 16 October 2019, the corrected English translation of the National Co-Investigating Judge’s Dismissal Order was filed and notified.

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<sup>1</sup> Case 004/07-09-2009-ECCC/OCIJ (“Case 004”), YIM Tith’s Urgent Request for Extension of Page and Time Limits for His Responses to the Appeals of the Closing Orders, 11 December 2019, D381/21 and D382/23.

<sup>2</sup> Case 004, International Co-Prosecutor’s Request for Extensions for her Response and Reply relating to the Appeals in Case 004, 16 December 2019, D381/22 and D382/24.

<sup>3</sup> Case 004, Order Dismissing the Case against YIM Tith, 28 June 2019, D381.

<sup>4</sup> Case 004, Closing Order, 28 June 2019, D382.

<sup>5</sup> Case 004, Decision on YIM Tith’s Request that the Pre-Trial Chamber Order the Urgent Provision of an Accurate English Translation of the Order Dismissing the Case against YIM Tith and Suspend the Closing Order Appeal Time Limits, 26 September 2019, D381/12 and D382/13. *See also* Case 004, YIM Tith’s Request that the Pre-Trial Chamber Order the Urgent Provision of an Accurate English Translation of the Order Dismissing the Case against YIM Tith and Suspend the Closing Order Appeal Time Limits, 11 September 2019, D381/5 and D382/5; Case 004, the Office of the Co-Prosecutors’ Email concerning Correction of Case 004 Dismissal Order (D381) Translation, 12 September 2019, D382/6.



5. On 30 October 2019, the Pre-Trial Chamber authorised the Parties to file 100-page submissions on appeal within 45 days from the notification of the corrected English translation of the Dismissal Order on 16 October 2019.<sup>6</sup>
6. On 13 September 2019, the National Co-Prosecutor filed her submissions on appeal against the Indictment<sup>7</sup> (the “National Co-Prosecutor’s Appeal”) in Khmer. The English translation of the National Co-Prosecutor’s Appeal was notified on 20 September 2019. On 1 October 2019, the International Co-Prosecutor filed her response to the National Co-Prosecutor’s Appeal in English. The Khmer translation of the response was notified on 11 October 2019.
7. The Co-Lawyers for YIM Tith (the “Co-Lawyers”) filed their appeals against the issuance of two Closing Orders in Case 004<sup>8</sup> and the Indictment<sup>9</sup> on 2 December 2019 and 4 December 2019, respectively. Both appeals were filed in English only. On 5 December 2019, the International Co-Prosecutor filed her submissions on appeal against the Dismissal Order (the “International Co-Prosecutor’s Appeal”),<sup>10</sup> in English. On 6 December 2019, the Civil Party Lawyers filed their submissions on appeal against the Dismissal Order (the “Civil Party Lawyers’ Appeal”)<sup>11</sup> in English and Khmer (collectively, the “Appeals against the Closing Orders”).
8. On 11 December 2019, the Co-Lawyers filed an urgent request for extension of page and time limits for their responses to the Appeals against the Closing Orders in Case 004, seeking the Pre-Trial Chamber’s authorisation for the Co-Lawyers to file (i) a 50-page response to the International Co-Prosecutor’s Appeal and a 30-page response to the Civil Party Lawyers’ Appeal, within 45 days from the date of the notification of the translations of both Appeals; (ii) 30-page replies to responses filed

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<sup>6</sup> Case 004, Decision on YIM Tith’s Request for Extension of page and Time Limits for His Appeal of the Closing Orders in Case 004, 30 October 2019, D381/16 and D382/19.

<sup>7</sup> Case 004, National Co-Prosecutor’s Appeal against the International Co-Investigating Judge’s Closing Order (Indictment) in Case 004, 13 September 2019, D382/4/1.

<sup>8</sup> Case 004, YIM Tith’s Appeal of the Issuance of Two Closing Orders in Case 004, 2 December 2019, D381/18 and D382/21.

<sup>9</sup> Case 004, YIM Tith’s Appeal of the International Co-Investigating Judge’s Closing Order in Case 004, D382/22.

<sup>10</sup> Case 004, International Co-Prosecutor’s Appeal of the Closing Order Dismissing the Case against YIM Tith (D381), 5 December 2019, D381/19.

<sup>11</sup> Case 004, Civil Party Lawyers’ Appeal against the National Co-Investigating Judge’s Closing Order in Case 004, 6 December 2019, D381/20.



by the International Co-Prosecutor or Civil Party Lawyers, within 25 days from the notification of all responses; and (iii) responses and replies in English only with the Khmer translation to follow at the earliest opportunity.<sup>12</sup>

9. On 16 December 2019, the International Co-Prosecutor filed her request for extensions for her response and reply relating to the Appeals in Case 004, seeking the Pre-Trial Chamber's authorisation to file (i) a 80-page response to YIM Tith's Appeal against the International Co-Investigating Judge's Closing Order, within 40 days from the date of the notification of the translation of the Appeal; (ii) replies to responses of her appeal against the Dismissal Order, within 25 days from the notification of all responses; and (iii) responses and replies in English only with the Khmer translation to follow at the earliest opportunity.
10. On 20 December 2019, the International Co-Prosecutor filed her response to the Co-Lawyers urgent request, stating that she does not object to the request.<sup>13</sup>
11. Pursuant to Internal Rules 39(2) and (4), the Pre-Trial Chamber may set and/or extend any time limits for the filing of documents relating to an appeal. The Chamber may also, pursuant to Article 5.4 of the Practice Direction on Filing of Documents, extend the page limit of a document in exceptional circumstances.
12. The Pre-Trial Chamber notes the length and complexity of the Appeals with the scope and significance of the factual and legal issues raised therein as well as the Chamber's obligation to balance fair trial rights and expeditiousness of the proceedings. Accordingly, the Pre-Trial Chamber finds it justified to grant all the Parties reasonable extensions of time and pages to file their responses and replies.
13. However, the Pre-Trial Chamber considers that the quality and effectiveness of a submission of appeal do not depend on its length, but rather on the clarity and

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<sup>12</sup> Case 004, YIM Tith's Urgent Request for Extension of Page and Time Limits for His Responses to the Appeals of the Closing Orders, 11 December 2019, D381/21 and D382/23.

<sup>13</sup> Case 004, the International Co-Prosecutor's Response to YIM Tith's Extension Requests relating to the Appeals in Case 004, 20 December 2019, D381/23 and D382/25.



cogency of the arguments presented and that, therefore, excessively long submissions do not necessarily facilitate the efficient administration of justice.<sup>14</sup>

14. Accordingly, the Pre-Trial Chamber finds it appropriate, in the interests of justice and in order to balance fair trial rights and efficiency, to grant all Parties a limited extension of 30 pages and of 35 days to file their responses, and of 20 days to file replies, with time limits running from the notification of the translation of each appeal and response. No further extension will be granted.

**FOR THESE REASONS, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:**

**GRANTS** the Requests in part;

**ALLOWS** the Parties to file 60-page responses within 45 days from the notification of translation of each Appeal;

**ALLOWS** the Parties to file 30-page replies within 25 days from the notification of translation of each response;

**ALLOWS** the Parties to file responses and replies in one language with translation to follow;

**INSTRUCTS** the ITU to ensure that requested translations are issued within 20 days from the filing of the responses and 15 days from the filing of the replies;

In accordance with Internal Rule 77(13), this decision is not subject to appeal.

Phnom Penh, 6 January 2020

Pre-Trial Chamber



Olivier BEAUVALLET NEY Thol Kang Jin BAIK HUOT Vuthy

<sup>14</sup> See Mechanism for International Criminal Tribunal (MICT), *Prosecutor v. Karadžić*, MICT-13-55-A, Decision on a Motion for an Extension of a Word Limit, Appeals Chamber, 8 September 2016, p. 2.

