

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

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**CO-PROSECUTORS' REQUEST FOR ADDITIONAL PAGES TO RESPOND TO
KHIEU SAMPHAN'S APPEAL OF THE CASE 002/02 JUDGMENT**

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I. INTRODUCTION

1. The Co-Prosecutors hereby request the Supreme Court Chamber (“SCC”) to extend the number of pages for their response to Khieu Samphan’s appeal of the Case 002/02 Trial Judgment.¹ The appeal is comprised of (i) a 76-page Annex A that is integral to Khieu Samphan’s submission² and (ii) a 750-page brief that incorporates by reference other submissions in Case 002.³
2. For reasons detailed below, the Co-Prosecutors do not object to the SCC accepting the appeal. However, to ensure fairness and the ability to adequately respond to the allegations in Khieu Samphan’s expanded appeal brief, the Co-Prosecutors respectfully request the SCC to grant them an additional 145 pages for their response to Khieu Samphan’s appeal.

II. PROCEDURAL HISTORY

3. The Case 002/02 Trial Judgment was issued in summary form on 16 November 2018.⁴ On 28 March 2019, the Trial Chamber provided its full reasoned judgment.⁵
4. On 1 July 2019, Khieu Samphan filed his Notice of Appeal,⁶ identifying at least 1,824 grounds of appeal and 355 appealable decisions.⁷
5. On 10 July 2019, Khieu Samphan requested a total of 10.5 months and 950 pages for his appeal brief.⁸ The Co-Prosecutors opposed the request on the basis that the extensions requested were unprecedented and unwarranted.⁹
6. On 23 August 2019, the SCC directed Khieu Samphan to file a brief not exceeding 750 pages, and directed the Co-Prosecutors to file their response, not exceeding 350 pages.¹⁰

¹ **E465** Case 002/02 Judgement, 28 Mar. 2019 (“Case 002/02 TJ”).

² **F54.1.1** Annex A – Résumé des Motifs d’Appel de Khieu Samphan (002/02), 27 Feb. 2020 (“Annex A to Defence Appeal Brief”).

³ **F54** Mémoire d’Appel de Khieu Samphan (002/02), 27 Feb. 2020 (“Defence Appeal Brief”).

⁴ Case 002/02 Summary of Trial Judgement, 16 Nov. 2018. *See also* **E1/529.1** Pronouncement of Judgment in Case 002/02, T. 16 Nov. 2018.

⁵ **E465** Case 002/02 TJ.

⁶ **E465/4/1** Khieu Samphan’s Notice of Appeal (002/02), 1 July 2019.

⁷ **F45** Khieu Samphan’s Request for an Extension of Time and Page Limits for Filing His Appeal Brief, 10 July 2019 (“Defence Request for Extensions”), para. 9.

⁸ **F45** Defence Request for Extensions, para. 19.

⁹ **F45/2** Co-Prosecutors’ Response to Khieu Samphan’s Request for Additional Time and Page Limits for Appellate Briefs, 22 July 2019.

¹⁰ **F49** Decision on Khieu Samphan’s Request for Extensions of Time and Page Limits for Filing His Appeal Brief, 23 Aug. 2019, para. 36 (disposition).

7. On 27 February 2020, Khieu Samphan filed his appeal brief.¹¹

III. SUBMISSION

8. In addition to Khieu Samphan's appeal brief utilising the maximum 750-page allowance that the SCC granted him, the brief also refers to a 76-page annex¹² entitled "Annex A – Summary of Grounds of Appeal of Khieu Samphan (002/02) (with identification of errors in the appeal statement)".¹³ As Khieu Samphan notes, his appeal brief is not organised in the same manner as his Notice of Appeal and he has sought to rectify this difference in Annex A.¹⁴ The Annex identifies and particularises (i) his grounds of appeal with references to intended grounds enumerated in his Notice of Appeal, (ii) the portion of the Trial Judgment being appealed, (iii) the alleged errors, (iv) the alleged rights violated, and (v) the alleged consequences of those errors or violations. Hence, Annex A is integral to Khieu Samphan's appeal brief, providing his actual grounds of appeal that the arguments in his appeal brief support. The Co-Prosecutors submit that the Annex is essential for the SCC and opposing parties to identify Khieu Samphan's appeal grounds and understand how the arguments made in his appeal brief support them, including whether the articulation of his grounds of appeal meets the standard of appellate review.
9. In addition, Khieu Samphan expressly notes in his appeal brief, under the heading entitled "Presentation of Brief",¹⁵ that to avoid repetition, he has incorporated by reference prior arguments such as those in his appeal brief in Case 002/01 and his closing brief in Case 002/02.¹⁶ A review of his appeal brief reveals that he has incorporated a minimum of 236 pages of prior submissions.¹⁷
10. In effect, Khieu Samphan's appeal of the Case 002/02 Trial Judgment amounts to 750 pages in his brief, 76 pages in his Annex A, and at least 236 pages which he has incorporated by reference, totalling some 1,062 pages to which the Co-Prosecutors must respond. This is a minimum of 312 additional pages beyond those the SCC envisaged

¹¹ **F54** Defence Appeal Brief.

¹² **F54** Defence Appeal Brief, fn. 30.

¹³ **F54.1.1** Annex A to Defence Appeal Brief, FR 01638787 (unofficial translation).

¹⁴ **F54** Defence Appeal Brief, para. 17, fn. 30.

¹⁵ **F54** Defence Appeal Brief, FR 01638005 (unofficial translation).

¹⁶ **F54** Defence Appeal Brief, para. 18 *citing* **F17** Mr Khieu Samphan's Defence Appeal Brief Against the Judgement in Case 002/01, 29 Dec. 2014; **E457/6/4/1** Khieu Samphan's Closing Brief (002/02), 2 May 2017, amended on 2 Oct. 2017.

¹⁷ *See e.g.* **F54** Defence Appeal Brief, fns 52, 140-141, 178, 203, 208, 243, 280, 301, 306, 669, 681-682, 687, 690, 816, 933, 1061, 1235, 2166, 2316, 3139, 3225, 3300, 3372, 3381, 4088.


when it directed the Co-Prosecutors to respond within 350 pages to an appeal brief that would not exceed 750 pages.

11. The Co-Prosecutors require a further 145 pages to effectively respond to the material contained in these additional pages. This request (i) is proportionate to the total number of pages the Co-Prosecutors were given to respond to an appeal brief of no more than 750 pages, (ii) is necessary to ensure fairness in the treatment of the parties to the appeal, and (iii) ensures the Co-Prosecutors are able to effectively and comprehensively respond to Khieu Samphan's allegations, thereby assisting the SCC in its resolution of errors alleged in the Case 002/02 Trial Judgment.

IV. REQUESTED RELIEF

12. For the foregoing reasons, the Co-Prosecutors request the SCC to grant them an additional 145 pages beyond the current 350-page limit for their response to Khieu Samphan's appeal, bringing the total page count for their response to no more than 495 pages.

Respectfully submitted,

Date	Name	Place	Signature
20 March 2020	CHEA Leang National Co-Prosecutor	Phnom Penh	
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