



E295/6

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

TRIAL CHAMBER

TO: All Parties, Case 002 **Date:** 12 September 2013

FROM: NIL Nonn, President of the Trial Chamber

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer

SUBJECT: Response to E-mailed Requests for Extension of Time



1. On 5 September 2013, the NUON Chea Defence submitted an e-mail to the Trial Chamber Senior Legal Officer requesting a one week extension for the closing briefs filing deadline in order to allow the Accused NUON Chea to review a Khmer language version of key sections of the Defence closing brief prior to filing. It submits such translation is unavailable due to a work stoppage/strike of certain Cambodian staff at the ECCC and that tasking its own Cambodian staff with completing an informal translation would divert valuable resources away from substantive work to which they have been assigned. *See E-mail of NUON Chea Defence Consultant to Trial Chamber Senior Legal Officer, 5 September 2013.* The KHIEU Samphan Defence requests that the closing briefs deadline be extended until after the Chamber issues a decision on KHIEU Samphan's motion for clarification on the use of written statements(E299/1)[*"que les délais de dépôt des mémoires finaux partiront à compter de sa décision à intervenir"*]. It also submits that its work has been affected by the work stoppage because requests to correct the translation of certain transcripts and documents remain unaddressed and because of other logistical issues such as a lack of a working printer. *See E-mail of KHIEU Samphan International Defence Counsel to Trial Chamber Senior Legal Officer, 5 September 2013.*

2. The Co-Prosecutors support the request for a one week extension of time, but submit that the extension should not affect the schedule for the closing statements. *See E-mail of Office of Co-Prosecutors' Senior Trial Attorney to Trial Chamber Senior Legal Officer, 5 September 2013.* The Civil Party International Lead Co-Lawyer makes no submissions on the request for extension of time. *See E-mail of Civil Party International Lead Co-Lawyer to Trial Chamber Senior Legal Officer, 5 September 2013.* The Civil Party

National Lead Co-Lawyer requests to distribute a courtesy copy of the English version of its closing brief on the court-imposed deadline and to file the written closing brief only when the translation from English into Khmer is finished. *See E-mail of Civil Party National Lead Co-Lawyer to Trial Chamber Senior Legal Officer*, 6 September 2013.

3. The Chamber recalls that the parties have been on notice since November 2012 that the deadline for closing briefs would follow shortly after the completion of evidentiary hearings in Case 002/01 and that it has already granted parties' requests to extend this deadline on two occasions: 17 June 2013 and 22 August 2013 (E163/5/4, E288/1/1, E295/4). The Chamber further recalls that "it is expected that legal staff within the Defence team, who among them have command of [the] official languages of the Tribunal, will cooperate in order to avoid unnecessary delays." *See Prosecutor v. Munyagishari*, ICTR Trial Chamber (ICTR-2005-89-I), Decision on the Defence Requests for Translation and Delays, 6 December 2011, para. 13, n. 27; *See also, Prosecutor v. Nizeyimana*, ICTR Trial Chamber (ICTR-00-55C-T), Scheduling Order, 19 August 2011, para. 10. The Chamber notes that the NUON Chea Defence is composed of native English and Khmer speakers and that the Defence concedes that its Cambodian team members are in principle capable of meaningfully explaining the contents of their Closing Brief to the Accused NUON Chea (*See also*, E163/5/1/15, para. 4). The NUON Chea Defence does not point to any authority that would support a right of the Accused to a translation of its own Closing Brief into Khmer when his legal team is capable of explaining its contents to him.

4. Nonetheless, the Chamber recognizes the NUON Chea Defence has relied upon the translation assistance provided to it by the Interpretation and Translation Unit (ITU) and that these services are not available to it during the work stoppage. For this reason, the Chamber has contacted the ECCC administration and has been informed that the Defence Support Section (DSS) has resources that may be put at the disposition of the NUON Chea Defence to assist them in meeting the deadlines set by the Chamber. *See E-mail of Deputy Director of Administration to Trial Chamber Senior Legal Officer*, 5 September 2013. The Chamber considers this resource allocation fairly addresses the issues raised by the NUON Chea Defence.

5. Despite this effective remedy, it is clear that all of the parties, for varying reasons, would benefit in the preparation of their Closing Briefs by an extension of the filing deadline. Therefore, the Chamber grants the extension of the Closing Brief deadline until **26 September 2013** for all parties. This extension does not affect the schedule for the Closing Statements which shall remain as set forth in E295/4, beginning on 16 October 2013.

6. Finally, the Chamber notes that during the Trial Management Meeting of 27 August 2012, it was suggested that filing of Closing Briefs would be in a single language (E163/5/4). The Civil Parties did not object at that time or at any time until the present. As it is unclear when translation will be available, to postpone the filing of their Closing Brief until a Khmer translation is available would create uncertainty as to their position. The Civil Party request to file a courtesy copy of their Closing Brief is therefore denied.