

BEFORE THE SPECIAL PANEL OF THE TRIAL CHAMBER  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

**FILING DETAILS**

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**CO-PROSECUTORS' REQUEST FOR EXPEDITED DECISION ON MOTIONS FOR  
DISQUALIFICATION**

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**Distributed to:**

**Special Panel**  
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## I. INTRODUCTION AND PROCEDURAL HISTORY

1. On 25 August 2014, Khieu Samphan filed a motion with the Trial Chamber seeking a stay of proceedings in Case 002/02, or in the alternative, the disqualification of President Nil Nonn and Judges Silvia Cartwright, Ya Sokhan, Jean-Marc Lavergne, You Ottara, and Claudia Fenz from hearing Case 002/02.<sup>1</sup> On 4 September 2014, the Co-Prosecutors responded to both arguments in the motion, and presented their views as to why disqualification is not warranted.<sup>2</sup> On 19 September 2014, the Trial Chamber denied the Khieu Samphan request to stay proceedings, and deferred to the Special Panel in regards to the disqualification request.<sup>3</sup>
2. On 29 September 2014, Nuon Chea filed a motion with the Special Panel for disqualification of President Nil Nonn, and Judges Ya Sokhan, Jean-Marc Lavergne, and You Ottara.<sup>4</sup> On 10 October 2014, the Office of the Co-Prosecutors filed a response to Nuon Chea's disqualification request.<sup>5</sup> On 10 October 2014, Khieu Samphan filed a motion with the Special Panel for disqualification of President Nil Nonn, and Judges Ya Sokhan, Jean-Marc Lavergne, You Ottara and Claudia Fenz.<sup>6</sup>
3. On 17 October 2014, opening statements were heard in Case 002/02. In his opening statement, Nuon Chea declared that he has instructed his lawyers not to participate in the trial until a decision on his disqualification motion is issued by the Special Panel.<sup>7</sup> Khieu Samphan, in his opening statement, declared that he has instructed his lawyers to focus on the ongoing appeal in Case 002/01 and not to participate in the Trial in Case 002/02 until after appellate briefing has concluded.<sup>8</sup> Counsel for the Accused, through their actions and statements, have indicated an intent to follow these instructions. The Co-Prosecutors submit this request for an expedited decision on the Defence motions for disqualification in light of these events.

## II. REQUEST

4. While the Co-Prosecutors are of the view that the Trial in Case 002/02 may continue under the current Trial Chamber Judges while the disqualification motions are pending, in accordance

<sup>1</sup> **E314/1** Mr Khieu Samphan's Request for Reconsideration of the Need to Await Final Judgement in Case 002/01 Before Commencing Case 002/02 and the Appointment of a New Panel of Trial Judges, 25 August 2014.

<sup>2</sup> **E314/3** Co-Prosecutors' Response to Khieu Samphan's Request for Stay of Proceedings or Disqualification of Judges, 4 September 2014.

<sup>3</sup> **E314/5** Decision on Khieu Samphan's request to delay the commencement of Case 002/02, 19 September 2014.

<sup>4</sup> **E314/6** Nuon Chea Application for Disqualification of Judges Nil Nonn, Ya Sokhan, Jean-Marc Lavergne, and You Ottara, 29 September 2014.

<sup>5</sup> **E314/9** Co-Prosecutor's response to Nuon Chea Disqualification Application, 10 October 2014.

<sup>6</sup> **E314/8**, Requête réitérée en récusation des juges composant actuellement la Chambre de première instance devant statuer sur le process 002/02, 10 October 2014.

<sup>7</sup> DRAFT Transcript of Proceedings, 17 October 2014, p. 73.

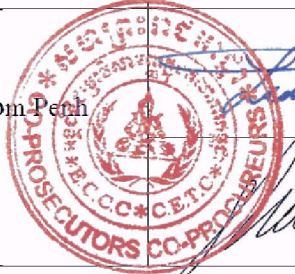
<sup>8</sup> DRAFT Transcripts of Proceedings, 17 October 2014, p. 76, 78.

with Internal Rule 34(5), they also submit that obtaining a decision on the disqualification motions as soon as possible is in the interest of all Parties. Therefore, in order to expedite receiving a decision on this matter, the Co-Prosecutors request that the Special Panel issue its decision on the disqualification motions as soon as possible, with its reasoning to follow. This procedure has previously been used to expedite decisions by multiple chambers of this Court, including the Pre-Trial Chamber<sup>9</sup>, and should be used here. Also in the interests of expediency, the Co-Prosecutors inform the Special Panel that they will not respond to Khieu Samphan's disqualification motion dated 10 October 2014. In that regard, the Co-Prosecutors consider that the arguments presented by Khieu Samphan have been adequately addressed in the Co-Prosecutors' previous submissions on this issue.<sup>10</sup>

### III. REQUESTED RELIEF

5. For these reasons, the Co-Prosecutors respectfully request the Special Panel to issue its decision on the disqualification motions as soon as possible, with reasons to follow.

Respectfully submitted,

Date	Name	Place	Signature
22 October 2014	CHEA Leang Co-Prosecutor	Phnom Penh	
	Nicholas KOUMJIAN Co-Prosecutor		

<sup>9</sup> See, e.g., **D427/2/12**, Decision on Ieng Thirith's and Nuon Chea's Appeals Against the Closing Order, 13 January 2011, at ENG ERN 00634920; **D427/4/14**, Decision on Khieu Samphan's Appeal Against the Closing Order, 13 January 2011, at para. 3; **D56/19/38**, (Redacted Version) Decision on \_\_\_'s Appeal Against the International Co-Investigating Judge's Decision Rejecting the Appointment of Ang Udom and Michale Karnavas as his Co-Lawyers, 17 July 2014, at para. 21; see also **E116/1/6**, Summary of the Reasons for the Decision on Immediate Appeal by Nuon Chea Against the Trial Chamber's Decision on Fairness of Judicial Investigation, 30 January 2012, at ENG ERN 00772887.

<sup>10</sup> **E314/3** Co-Prosecutors' Response to Khieu Samphan's Request for Stay of Proceedings or Disqualification of Judges, 4 September 2014; **E314/9** Co-Prosecutor's response to Nuon Chea Disqualification Application, 10 October 2014.