

BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

FILING DETAILS

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**CO-PROSECUTORS' RESPONSE TO NUON CHEA'S RESPONSE TO THE REQUEST
TO CALL THET SAMBATH (2-TCW-885) AS A PRIORITY WITNESS**

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REPLY

1. The Co-Prosecutors hereby reply to the Response¹ of the Defence for Nuon Chea (“Nuon Chea Defence”) to the Co-Prosecutors’ Request² to the Trial Chamber (“Chamber”) to prioritise the testimony of Thet Sambath (2-TCW-885) in Case 002/02.
2. This reply was initially filed on 30 January 2015 at 14:07, in advance of the due date of 2 February 2015. The Co-Prosecutors were notified by the Greffier of the Chamber on 4 February 2015 that the reply was rejected as deficient for want of prior authorisation. The Co-Prosecutors requested condonation of the reply as filed on 4 February 2015, and received leave to re-file on 5 February 2015.³
3. The Nuon Chea Defence claim that they agree that the evidence of Thet Sambath should be “generally” prioritised and expedited.⁴ However, they urge the Chamber to delay calling Thet Sambath until “immediately before or after the appeal hearings” which, they state, are expected to take place in approximately June or July 2015.⁵
4. The reasons given by the Nuon Chea Defence to delay the testimony of Thet Sambath cannot be reconciled with their stated position. If, as they maintained before the Supreme Court Chamber prior to filing their notices of appeal,⁶ Thet Sambath could provide exonerating evidence relevant to their appeal in Case 002/01, the Nuon Chea Defence would want that evidence to be heard as soon as possible, not “immediately before” and certainly not “after” the appeal hearings. Given their request to delay, one may question whether the Nuon Chea Defence truly wants to see Thet Sambath appear as a witness in this case or whether they hope he will not testify at all, in order to leave the public with the erroneous impression that a body of mysterious, purportedly exonerating evidence has gone unheard.

¹ **E335/1** Nuon Chea’s Response to the Co-Prosecutors’ Request to call Thet Sambath (2-TCW-885) as a Priority Witness, 26 January 2015 (“Response”).

² **E335** Co-Prosecutors’ Request to Summon Thet Sambath (2-TCW-885) as a Priority Witness, 16 January 2015.

³ Email from the Trial Chamber Legal Officer to the Assistant Prosecutor, “Re: Condonation of reply to E335/1 as filed”, 5 February 2015.


⁴ **E335/1** Response, *supra* note 1, para. 2.

⁵ **E335/1** *Ibid.* para. 3.

⁶ **F2** Request to Obtain and Consider Additional Evidence in Connection with the Appeal against the Trial Judgment in Case 002/01, 1 September 2014, paras. 14-17.

5. The Co-Prosecutors maintain their request to the Chamber to invite Thet Sambath (2-TCW-885) to testify as soon as may be practical.

Respectfully submitted,

Date	Name	Place	Signature
6 February 2015	CHEA Leang Co-Prosecutor	Phnom Penh	
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