



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

អង្គជំនុំជម្រះតុលាការកំពូល

Supreme Court Chamber

Chambre de la Cour suprême



សំណុំរឿងលេខ: ០០២/១៩-០៩-២០០៧-អ.វ.ត.ក-អ.ជ.ស.ដ/អ.ជ.ត.ក(២៤)

Case File/Dossier N°. 002/19-09-2007-ECCC-TC/SC(24)

Before:

- Judge KONG Srim, President
- Judge Chandra Nihal JAYASINGHE
- Judge Agnieszka KLONOWIECKA-MILART
- Judge MONG Monichariya
- Judge Florence Ndepele Mwachande MUMBA
- Judge SOM Sereyvuth
- Judge YA Narin

Date:

30 January 2013

Language(s):

Khmer/English

Classification:

PUBLIC

**DECISION ON IENG SARY’S EXPEDITED REQUEST TO FILE APPEAL IN ENGLISH
ONLY WITH KHMER TRANSLATION TO FOLLOW**

Co-Prosecutors

CHEA Leang
Andrew CAYLEY

Accused

IENG Sary

Civil Party Lead Co-Lawyers

PICH Ang
Elisabeth SIMONNEAU-FORT

Co-Lawyers for IENG Sary

ANG Udom
Michael KARNAVAS

1. **THE SUPREME COURT CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea between 17 April 1975 and 6 January 1979 (“Supreme Court Chamber” and “ECCC”, respectively) is seized of “IENG Sary’s Expedited Request to File Appeal in English Only with Khmer Translation to Follow” filed on 29 January 2013 (“Request”).¹

2. On 16 January 2013, the Trial Chamber rendered its “Decision on the IENG Sary Defence Request to Audio and/or Video Record IENG Sary in the Holding Cell” (“Decision”).² In the Request, the Defence for IENG Sary (“Defence”) indicates that it intends to appeal the Decision pursuant to Rule 104(4)(b) of the Internal Rules,³ which carries a 15-day filing deadline according to Rule 107(2) of the Internal Rules.⁴ It submits that the Request is made necessary because the current heavy respective workloads of the Defence and of the Interpretation and Translation Unit of the ECCC (“ITU”) result in leaving the Defence with insufficient time to draft an expected 30-page appeal before having to submit it for translation.⁵ It therefore requests authorization to file the appeal in English only by the filing deadline, with the Khmer translation to follow as soon as it is completed.⁶

3. The Supreme Court Chamber recalls that all documents shall be filed in Khmer as well as in English or French.⁷ In exceptional circumstances, however, the Co-Investigating Judges or a Chamber of the ECCC may authorize a party to file a document in French or in English in the first instance, provided however, that a Khmer translation must be filed before the Chamber at the first opportunity.⁸ The Supreme Court Chamber notes that the Decision is dated 16 January 2013, and that it was filed and notified to the parties the following day.⁹ In accordance with Rule 107(2) of the Internal Rules, any appeal to the Decision brought pursuant to Rule 104(4)(b) of the Internal Rules must therefore be filed no later than 1 February 2013.

4. The Supreme Court Chamber emphasizes that all parties must at all times strive to meet the general requirement of simultaneous bilingual filings before the ECCC. The importance of Khmer versions of filings cannot be overstated, particularly in light of Article 8.5 of the Practice

¹ E254/3/1/1.1.

² E254/3.

³ Internal Rules of the ECCC, Revision 8, 3 August 2011 (“Internal Rules”).

⁴ Request, para. 1.

⁵ Request, paras. 2-7. *See also* Attachment 1: Email from ITU to IENG Sary Defence, “RE: Translation Request”, 29 January 2013, E254/3/1/1.1.1.1.

⁶ Request, p. 1, paras. 8-9.

⁷ Article 7.1 of the Practice Direction on the Filing of Documents before the ECCC, Revision 8, 7 March 2012 (“Practice Direction”).

⁸ Article 7.2 of the Practice Direction.

⁹ Decision, first page.

Direction, which states that “time limits commence on the first calendar day following the day of service of the [n]otification of the document in Khmer and one other official language of the ECCC.” In structuring their work within prescribed time limits, parties must therefore make provision for the time required to file in both Khmer and English or French. Exemptions to this requirement may only be granted on a case-by-case and exceptional basis, upon a showing of good cause.

5. In the present case, the Supreme Court Chamber considers that the Defence has demonstrated that current workloads render 15 days to be insufficient time to file an anticipated 30-page appeal in both English and Khmer. The Supreme Court Chamber finds this to constitute good cause for authorizing the Defence to file its appeal in English in the first instance, with a Khmer translation to follow at the first opportunity.

6. For the foregoing reasons, the Supreme Court Chamber **GRANTS** the Request.

Phnom Penh, 30 January 2013

President of the Supreme Court Chamber



KONG Srim