

**BEFORE THE OFFICE OF THE CO-INVESTIGATING JUDGES OF THE EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAILS**

**Case No:** 002/19-09-2007-ECCC-OCIJ      **Party Filing:** Defence for Ieng Thirith  
**Filed to:** Office of the Co-Investigating Judges      **Original language:** English  
**Date of Document:** 11 November 2009

**CLASSIFICATION**

**Classification of the document suggested by the filing party:** Public

**Classification by Chamber:**

**Classification Status:**

**Review of Interim Classification:**

**Records Officer Name:**

**Signature:**

**ឯកសារដើម**  
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):  
..... 11 / 11 / 2009 .....

ម៉ោង (Time/Heure):..... 14:00 .....

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: Ratanak

CONFIDENTIAL  
CONFIDENTIEL

**សាធារណៈ**  
**PUBLIC**

12/11/2009 *Quil*

12/01/2010 *Quil*

**DEFENCE REQUEST FOR ADDITIONAL TIME AT THE END OF THE INVESTIGATIONS**

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ថ្ងៃ ខែ ឆ្នាំ ត្រឹមត្រូវបញ្ជាក់ (Certified Date/Date de certification):  
..... 14 / 01 / 2010 .....

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: SANN RADA

## I INTRODUCTION AND PETITION

1. On several occasions over the last few months, the Office of the Co-Investigating Judges (**OCIJ**) has indicated it intends to notify the parties of the end of the investigations pursuant to Internal Rule 66(1) (**Rule 66 Notification**) by December of this year.
2. Rule 66(1) grants parties fifteen days after such notice to file further investigative requests.
3. On 5 November 2009 defence for Nuon Chea filed its 'Request for Adoption of Certain Procedural Measures' (**Nuon Chea Request**) in which it requests the OCIJ *inter alia* to inform the parties of the exact date of the end of the investigation; to timely add all new material on the case file before such notice is issued; and to decide in a timely matter on all outstanding investigative requests before the filing of the notice.<sup>1</sup>
4. The defence supports the filing of the Nuon Chea defence, however, requests a different form of relief.
5. The defence submits these fifteen days will be insufficient and requests the period to file further investigative requests be extended to 45 days instead.

## II RELEVANT LAW

### 2.1 Legal Basis Request

6. Internal Rule 66(1)(a) provides

Where the Co-Investigating Judges consider that an investigation has been concluded, they shall notify all the parties and their lawyers. This decision shall

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<sup>1</sup> Nuon Chea defence, Request for Adoption of Certain Procedural Measures, 5 November 2009 (this document has not yet been notified to the parties).

be made public. The parties shall have 15 (fifteen) days to request further investigative action. They may waive such period.

7. Internal Rule 39(4)(a) allows the OCIJ to vary the time limits, as requested in the current application.

## 2.2 Charged Person's Right to Adequate Time

8. The defence submits fifteen days to file additional investigative requests is insufficient and will be further aggravated if any new evidence is put on the case file. Thus, the Charged Person's right to 'adequate time and facilities', as guaranteed by Article 14(3)(b) of the International Covenant on Civil and Political Rights (**ICCPR**), will be violated.

## III SUMMARY OF RELEVANT FACTS

9. For the relevant facts, the defence refers to paragraphs 20-47 of the Nuon Chea Request, which set out a detailed description of the factual problems surrounding the close of the investigations and the ensuing 15-day period for further investigative requests, and adopts the points set out therein.

## IV ARGUMENTS

10. The defence submits that the 15-day period of Internal Rule 66(1) does not allow the defence to properly assess the new evidence which will be put on the case file up until the issuing of the Rule 66 Notification and to file meaningful investigative requests to that extent. This would thus violate the Charged Person's right to adequate time and facilities in the preparation of her trial, as guaranteed by Article 14(3)(b) ICCPR.

11. Whilst the OCIJ has specified 'December 2009' as the month in which it intends to notify the parties of the close of its investigations, it has not specified whether this will be the beginning or end of December. Given that the last part of that month is considered a holiday period, it is crucial for the defence to know as soon as possible the exact timing of such notice, especially given that any holidays which may occur in the 15-day period are counted towards those fifteen days.
12. The defence submits that the 15-day period provided for by Internal Rule 66(1) is insufficient for the parties, and requests the OCIJ to allow the parties to file further investigative requests within 45 days from the Rule 66 Notice instead.

#### V PRAYER

13. For these reasons, the defence requests the OCIJ to:

- (i) Inform the parties of the exact date of its notification;
- (ii) Add newly assembled information at their earliest convenience to the case file; and
- (iii) To extend the deadline of 15 days provided in Internal Rule 66(1) to 45 days.

Party	Date	Name Lawyers	Place	Signature
Co-Lawyers for Ieng Thirith	11 November 2009	PHAT Pouv Seang Diana ELLIS, QC	Phnom Penh	