

**BEFORE THE SUPREME COURT CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

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**REQUEST FOR EXTENSION OF TIME FOR FILING OF IMMEDIATE APPEAL
AGAINST TRIAL CHAMBER DECISION ON RULE 35 REQUEST FOR SUMMARY
ACTION AGAINST MINISTER OF FOREIGN AFFAIRS HOR NAMHONG**

Filed by

Nuon Chea Defence Team:
 Michiel PESTMAN
 Victor KOPPE
 Andrew IANUZZI
 Jasper PAUW
 Joshua ROSENSWEIG
 Sofie HOGESTOL
 Renee DE GEUS

Distribution

Co-Accused

Co-Prosecutors:
 CHEA Leang
 Andrew CAYLEY

Co-Lawyers for Civil Parties:
 PICH Ang
 Elisabeth SIMONNEAU-FORT

Pursuant to Internal Rule 39(4)(a), the Co-Lawyers for Nuon Chea ('the Defence') hereby request an extension of time in which to file its immediate appeal against the Trial Chamber Decision On Rule 35 Request For Summary Action Against Minister Of Foreign Affairs Hor Namhong:

1. On 6 February 2012, the Trial Chamber issued a memorandum listing judicial recesses during 2012, including one from 24 December 2012 through 4 January 2013. The Chamber indicated that '[d]uring the periods indicated...the Court Management Section will not accept any document for filing in Case 002...Where a time limit falls on a day during the above recess, the due date for filing will become the first working day following the recess period.'¹
2. On 23 November 2012 the Trial Chamber issued two decisions under Rule 35(6).² Both decisions are subject to immediate appeal pursuant to Rule 104(4)(d), due 30 calendar days from the date of notification, namely, Sunday 23 December 2012.³ In accordance with Rule 39(3), that deadline is automatically extended to the following working day, 24 December 2012 – the beginning of the Trial Chamber's judicial recess. Pursuant to Rule 106(2), immediate appeals 'shall be filed with the Greffier of the Trial Chamber'.
3. In reliance on the Trial Chamber's memorandum of 6 February 2012, the Defence concluded that filings would not be accepted on December 24 and that the deadline for both immediate appeals had been moved to 8 January 2013, the first working day following the end of the recess. That conclusion was based primarily on the language of the memorandum: 'the *Court Management Section* will not accept any document for filing in *Case 002*'. It was buttressed by the language of Rule 106(2), which states that immediate appeals shall be '*filed*' with the Trial Chamber and the fact that it is the Trial Chamber that is seized of the Case 002 Case File.
4. On 10 December 2012, the Supreme Court Chamber indicated to the parties via email from its Legal Officer that the judicial recess called by the Trial Chamber has no bearing on filing deadlines at the Supreme Court Chamber and that any filing due during the Trial Chamber recess remains in force. It follows that the deadline for the immediate appeal of the two decisions notified on 23 November 2012 is 24 December 2012.

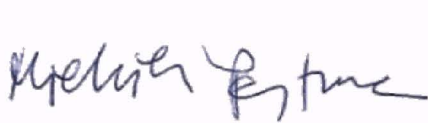
¹ Document No. **E-165**, Memorandum from Trial Chamber re 'Judicial Recesses During 2012', 6 February 2012, ERN 00774744.

² Document No. **E-189/3**, 'Decision on Application for Immediate Action Pursuant to Rule 35', 22 November 2012, ERN 00859224-00859231; Document No. **E-219/3**, 'Decision on Rule 35 Request Calling for Summary Action against Minister of Foreign Affairs HOR Namhong', 22 November 2012, ERN 00864703-00864711.

³ See Internal Rule 107(1).

5. The Defence accepts the Supreme Court Chamber's decision in that regard but submits that its own interpretation of the Trial Chamber's memorandum in light of the Internal Rules was reasonable. The timeframe for the submission of both appeals has therefore been unexpectedly and substantially shortened. For these reasons, the Defence requests an extension of time until 8 January 2013 to file its immediate appeal against the Trial Chamber's Decision On Rule 35 Request For Summary Action Against Minister Of Foreign Affairs Hor Namhong, document number E219/3.
6. The Defence does not seek an extension of time in connection with the Trial Chamber's Decision on Application for Immediate Action Pursuant to Rule 35, document number E189/3. The Defence does, however, request leave under Article 7.2 of the Practice Direction on Filing to file its immediate appeal in English, with the Khmer translation to follow as soon as possible.⁴ The Defence submits that the events described herein constitute 'exceptional circumstances' within the meaning of that provision. ITU has indicated that translation will be complete no later than 8 January 2013.

CO-LAWYERS FOR NUON CHEA



Michiel PESTMAN



Andrew IANUZZI



Jasper PAUW

⁴ Practice Direction ECCC/01/2007/Rev. 8, 'Filing of Documents Before the ECCC'.