

**BEFORE THE TRIAL CHAMBER OF THE  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

**FILING DETAILS**

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**IENG THIRITH DEFENCE REPLY TO CO-PROSECUTOR'S RESPONSE TO  
DEFENCE REQUEST TO DETERMINE DEADLINES**

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NIL Nonn, President  
Silvia CARTWRIGHT  
THOU Mony  
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**Co-Prosecutors:**

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## 1. Introduction

1. On 14 January 2011 the defence for Madame Ieng Thirith (**Accused**) and co-accused Nuon Chea filed their 'Urgent Defence Request to Determine Deadlines' (**Request**),<sup>1</sup> to which the Co-Prosecutors responded on 25 January 2011 (**Response**).<sup>2</sup> The defence herewith files its Reply, in accordance with Article 8.4 of the Practice Direction on Filing of Documents before the ECCC.
2. The defence will limit itself in this reply to address only such issues that were not raised in the Request itself.

## 2. Argument

3. The Response alleges that the Request fails to show how the absence of the reasoning of the Pre-Trial Chamber's Appeal Decision<sup>3</sup> affects their ability to compile the Witness List and Preliminary Objections.
4. The main argument raised by the defence is that the Appeal Decision does not qualify as a 'decision', and hence the deadline has not yet started running. Before the defence filed its arguments, the Trial Chamber had already considered itself seized of the case, but the following day the defence immediately filed the underlying Request. Because the Chamber considered itself seized, the defence started filing other documents before the Trial Chamber. This does not mean that the defence 'implicitly accepted' that the Pre-Trial Chamber's Appeal Decision qualified as a 'decision' in the sense of Internal Rule 77, as argued by the Co-Prosecutors,<sup>4</sup> but the defence's intention is not to obstruct or boycott the proceedings before the Trial Chamber.

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<sup>1</sup> Urgent Defence Request to Determine Deadlines, 14 January 2011, Document No. E14.

<sup>2</sup> Co-Prosecutors' Observations on Ieng Thirith and Nuon Chea's Urgent Defence Request to Determine Deadlines, 25 January 2011, Document No. E14/1. This document was notified to the parties on 26 January 2011.

<sup>3</sup> PTC, Decision on Ieng Thirith's and Nuon Chea's Appeals against the Closing Order, 13 January 2011 (**Appeal Decision**).

<sup>4</sup> Response, para. 5.



5. The defence submits that if the reasons are not provided by the Pre-Trial Chamber and viewed as part of their decision in accordance with Internal Rule 77(14) there is an appearance that the underlying reasoning, and thus the Appeal Decision itself, is redundant. The Co-Prosecutors indeed seem to suggest this, when they state that 'there is no reason why the Accused's preliminary objections, which will be made before the Trial Chamber, will be affected by the Pre-Trial Chamber's full decision'.<sup>5</sup>
6. The Pre-Trial Chamber's reasoning is expected to be crucial to the defence formulation of the Preliminary Objections, hence a 'supplemental submission', as suggested by the Co-Prosecutors,<sup>6</sup> would not be a solution. Also the compiling of the witness list is expected to be influenced by the reasoning, but to a lesser extent, though the composition of that list may depend on the Pre-Trial Chamber's determination of the Civil Parties, which process has not yet been finalized by the Pre-Trial Chamber either. Further, the defence presumes the Trial Chamber may at the very least take guidance from the Pre-Trial Chamber's reasoning for the jurisdictional decisions in the Appeal Decision.

### 3. Conclusion

7. For the above reasons, the defence respectfully requests the Trial Chamber to clarify the deadlines imposed under Internal Rules 80 and 89; and secondly to order that these deadlines start running from the date upon which the Pre-Trial Chamber provides the underlying reasons for its Appeal Decision. Considering the nature of the request, the defence further requests the Trial Chamber to issue such an order as soon as possible.

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<sup>5</sup> Response, para. 6.

<sup>6</sup> Response, para. 8.

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Party	Date	Name Lawyers	Place	Signature
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