

អង្គការសហមេធាវីនាំមុខតំណាងដើមបណ្តឹងរដ្ឋប្បវេណី

Civil Party Lead Co-Lawyers' Section

Section des co-avocats principaux pour les parties civiles

6 May 2019



TO: Judge NIL Nonn, President of the Trial Chamber;
All Trial Chamber Judges;
All Parties, Case 002

FROM: PICH Ang and Marie Guiraud, Civil Party Lead Co-Lawyers

SUBJECT: Civil Party Lead Co-Lawyers' comments and objections regarding the Trial Chamber Memorandum entitled "Confidential documents in Case 002/02 judgement proposed for reclassification to public"

1. On 16 November 2018, the Trial Chamber issued the summary of its verdict in Case 002/02 during a public hearing.¹ On 28 March 2019, the full reasoned judgement was notified to the Parties in Khmer, English, and French.² On 9 April 2019, the Trial Chamber issued an interoffice memorandum ("the Memorandum") inviting the parties to comment on the reclassification to public of 1,439 confidential documents "referenced, referred to or extracted in the trial judgment" by 6 May 2019.³ The Civil Party Lead Co-Lawyers ("Lead Co-Lawyers") hereby provide their comments and objections to certain documents specific to the Civil Parties.

Civil party applications listed in Annex A

2. The Lead Co-Lawyers do not object to the declassification of civil party applications and supplementary information forms listed in Annex A, subject to Article 7.4 of the Practice Direction, which states that the "[c]ontact details of Complainants and Civil Party Applicants contained in Victims Information

¹ See **E1/529.1** Transcript of Hearing on the Substance in Case 002/02, 16 November 2018.
² **E465** Case 002/02 Judgement, 16 November 2018 (full reasoned decision notified 28 March 2019).
³ **E467** Interoffice Memorandum entitled "Confidential documents in Case 002/02 judgment proposed for reclassification to public, 9 April 2019, para. 6 ("Memorandum").

Forms made public under Article 4, shall be redacted from the documents appearing on the ECCC website.”

Reparation annexes listed in Annex B should remain confidential

3. The Lead Co-Lawyers object to the declassification of the confidential annexes to its Final Claim for Reparation (E457/6/2) and Supplemental Submission on Funding Issues Related to Reparation Projects in Case 002/02 and Request for Guidance (E457/6/2/4) as listed in Annex B of the Memorandum.⁴ The Lead Co-Lawyers recall that the practice of filing reparation related annexes as confidential was established in Case 002/01, and those annexes remain confidential, despite being cited in the Case 002/01 trial judgment. The Lead Co-Lawyers see no reason to depart from this practice. With the exception of the letters of engagement between the Lead Co-Lawyers, the Victims Support Section, and the NGO partners, the information contained in the annexes is generated by third parties who were not informed that the information would be made public, based on the Case 002/01 practice.⁵ The reparation annexes were filed on a confidential basis for good cause as they contain, for example: detailed itemized budgets, in most cases including salary information and organizational overhead; identities of project staff; contracts between third parties; agreements between third parties; contact information for donors and project partners; and in some instances, bank account information is contained in financial agreements. While the Lead Co-Lawyers respect the principle of transparency of the proceedings, it would be inappropriate to declassify the reparation related documents identified by the Trial Chamber.

Other documents contained in Annex B

4. The Lead Co-Lawyers do not object to the declassification of E344, but would object to the declassification of E344.1 as it contains the telephone number of

⁴ **E467.2** Annex B: Trial Chamber decisions and related Case 002 filings, ERN 01614788-89 listing document numbers E457/6/2/1.1.1, E457/6/2/1.1.2, E457/6/2/1.1.3, E457/6/2/1.1.4, E457/6/2/1.1.5, E457/6/2/1.1.6, E457/6/2/1.1.7, E457/6/2/1.1.8, E457/6/2/1.1.9, E457/6/2/1.1.10, E457/6/2/1.1.11, E457/6/2/1.1.12, E457/6/2/1.1.13, E457/6/2/1.1.15, E457/6/2/4.2, E457/6/2/4.3 for proposed declassification.

⁵ **E457/6/2** Civil Party Lead Co-Lawyers’ Final Claim for Reparation, 30 May 2017, para. 14 and footnote 22.

the Civil Party. The Lead Co-Lawyers do not object to the declassification of their Amended Closing Brief.

Documents related to withdrawn civil parties contained in Annex D

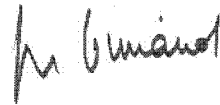
5. The Lead Co-Lawyers have no specific observations with respect to the documents listed in Annex D related to two victims who withdrew as civil parties in Case 002.

Respectfully submitted,

Phnom Penh, 6 May 2019



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National Lead Co-Lawyer



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