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

# **FILING DETAILS**

Case No: 002/19-09-2007-ECCC/SC

Party Filing: Civil Party Lead Co-Lawyers

Filed to: Supreme Court Chamber

Original Language: English

Date of Document: 26 August 2019

## **CLASSIFICATION**

Classification of the document suggested by the filing party: Classification by Chamber: Classification Status: Review of Interim Classification: Records Officer Name: Signature:

<b>ວ</b> ສຄາແຂຶ້ນ	
ORIGINAL/ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ (Date)	26-Aug-2019, 15:31
CMS/CF0:	Sann Rada

# CIVIL PARTY LEAD CO-LAWYER'S RESPONSE TO NUON CHEA'S URGENT REQUEST CONCERNING THE IMPACT ON APPEAL PROCEEDINGS OF NUON CHEA'S DEATH PRIOR TO THE APPEAL JUDGEMENT

PUBLIC

សាធារណ:/Public

# **TABLE OF AUTHORITIES**

# Filed by:

## Lead Co-Lawyers for Civil Parties

PICH Ang

## **Co-Lawyers for Civil Parties**

CHET Vanly HONG Kim Suon KIM Mengkhy LOR Chunthy MOCH Sovannary SIN Soworn SAM Sokong VEN Pov

# **Before:**

## Supreme Court Chamber

Judge KONG Srim, President Judge SOM Sereyvuth Judge Chandra Nihal JAYASINGHE Judge Maureen HARDING Clark Judge Florence Ndepele MUMBA Judge MONG Monichariya Judge YA Narin

# **Distribution to:**

**Office of the Co-Prosecutors** 

002/19-09-2007-ECCC/SC

TY Srinna Olivier BAHOUGNE Laure DESFORGES Ferdinand DJAMMEN NZEPA Isabelle DURAND Françoise GAUTRY Emmanuel JACOMY Martine JACQUIN Yiqiang LIU Daniel LOSQ Christine MARTINEAU Lyma NGUYEN Nushin SARKARATI Mahesh RAI CHEA Leang Brenda J. HOLLIS (reserve)

## The Accused:

KHIEU Samphân

## **Co-Lawyers for the Defence:**

SON Arun LIV Sovanna Doreen CHEN KONG Sam Onn Anta GUISSÉ

#### TABLE OF AUTHORITIES

## I. ECCC Law

- Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, 10 August 2001, as amended on 27 October 2004 (ns/rkm/1004/006), Articles 35 *new* and 37 *new*.
- 2. ECCC Internal Rules (Rev. 9), as revised on 16 January 2015.

#### II. Cambodian Law

- 3. Criminal Procedure Code of the Kingdom of Cambodia, Articles 397, 435.
- 4. Constitution of the Kingdom of Cambodia, Article 38.

#### III. ECCC Jurisprudence

#### A. Supreme Court Chamber

- Case No 002/19-09-2007/ECCC/SC, Decision on NUON Chea and KHIEU Samphân's Requests for Extensions of Time and Page Limits on Notices of Appeal, F43, 26 April 2019.
- Case No 002/19-09-2007/ECCC/SC, Decision to Terminate Proceedings against NUON Chea, F46/3, 13 August 2019.
- Case No 002/19-09-2007/ECCC/SC, Decision on Civil Party Lead Co-Lawyers' Requests Relating to the Appeals in Case 002/01, Supreme Court Chamber, F10/2, 26 December 2014, paras 14, 17
- Case No 002/12-09/2007/ECCC/SC, Appeal Judgement, Supreme Court Chamber, F36, 23 November 2016, para. 81.
- Case No 002/19-09-2007-ECCC-TC/SC, Decision on the Co-Prosecutors' Immediate Appeal of the Trial Chamber's Decision Concerning the Scope of Case 002/01, E163/5/1/13, 8 February 2013, para. 24.
- 10. *Case No 001/18-07-2007*, Judgement, Supreme Court Chamber, **F28**, 3 February 2012, paras 641, 644, 661.

#### B. Trial Chamber

- 11. *Case No 002/19-09-2007/ECCC/TC*, Case 002/02 Judgement, Trial Chamber, **E465**, 16 November 2018, paras 4410, 4416, 4418.
- 12. Case No 002/19-09-2007/ECCC/TC, Case 002/01 Judgement, Trial Chamber, E313, 7 August 2014, paras 1123-1124.
- Case No 002/19-09-2007/ECCC/TC, Decision on Severance of Case 002 following Supreme Court Chamber Decision of 8 February 2013, E284, 26 April 2013, paras 158, 161.
- Case No 002/19-09-2007/ECCC/TC, Trial Chamber Memorandum entitled Indication of priority projects for implementation as reparation (Internal Rule 80bis(4)), E218/7, 3 December 2012.

#### IV. International Law

#### A. United Nations Documents

15. A/RES/60/147, General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 21 March 2006, paras 11(a), 12, 22(b), 22(c), 22(f). [http://www.legal-tools.org/doc/bcf508/] Authority exceeds 10 pages, excerpt contained in Attachment 1.

## **B.** Inter-American Court of Human Rights

- 16. Case of the Plan de Sánchez Massacre v. Guatemala (Reparations), Judgment of November 19, 2004, para. 81. [http://www.legal-tools.org/doc/e8533d/] Authority exceeds 10 pages, excerpts contained in Attachment 2.
- 17. Case of Tibi v. Ecuador (Preliminary Objections, Merits, Reparations and Costs, Judgment of September 07, 2004, para. 243. [http://legal-tools.org/doc/b7446b/] Authority exceeds 10 pages, excerpt contained in Attachment 3.
- 18. Case of the "Juvenile Reeducation Institute" v. Paraguay (Preliminary Objections, Merits, Reparations and Costs), Judgment of September 2, 2004, para. 299. [http://www.legaltools.org/doc/68d36c/] Authority exceeds 10 pages, excerpt contained in Attachment 4.
- 19. Case of Ricardo Canese v. Paraguay (Merits, Reparations and Costs), Judgment of August 31, 2004, para. 205. [http://www.legal-tools.org/doc/477653/] Authority exceeds 10 pages, excerpt contained in Attachment 5.

## V. Other

- 20. The Center for Justice & Accountability, Victims' Right to Remedy, <u>https://cja.org/what-we-do/litigation/khmer-rouge-trials/related-resources/victims-right-to-remedy/</u> (last accessed 22/08/2019). Attachment 6.
- 21. The Center for Justice & Accountability, Proposed Amendment of Internal Rule 23quinquies(3), <u>http://cja.org/downloads/Plenary%20Paper%20Rule%2023.pdf</u> p. 3 (last accessed 22/08/2019). Attachment 7.