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E218/7/2

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
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Nation Religion Roi

សាធារណៈ / Public

TRIAL CHAMBER

Date: 1 August 2013

TO: Civil Party Lead Co-Lawyers

FROM: NIL Nonn, President, Trial Chamber

CC: All Trial Chamber Judges; All parties, Case 002; Victims Support Section
Trial Chamber Senior Legal Officer

SUBJECT: Trial Chamber's Response to the Lead Co-Lawyers' Initial Specification of
Party Priority Projects as Reparations pursuant to Rule 80 bis(4) (E218/7/1)



1. In order to ensure that proceedings in Case 002/01 may result in meaningful reparation for victims, and in view of limited donor funds and finite human resources available to both the Lead Co-Lawyers and the Victims Support Sections, the Chamber suggested in E218/7 that the Lead Co-Lawyers:
 - prioritize for development a small number of reparations awards out of the totality currently contemplated pursuant to Internal Rule 23quinquies(3)(b), and;
 - commence preparation for their implementation as soon as possible.
2. On 4 December 2012, the Chamber requested the Lead Co-Lawyers to identify, pursuant to Internal Rule 80bis(4), the Civil Parties' prioritized list of reparation projects currently under development, clarifying that implementation of these measures may begin prior to the verdict in Case 002/01. It also requested from the Lead Co-Lawyers, in consultation with the Victims Support Section, information regarding the current status of the financing of these projects in order to ensure that all measures sought pursuant to Internal Rule 23quinquies(3)(b) might be realized (with the support of donor assistance and external collaborators) within a meaningful time frame (E218/7). The Trial Chamber also stated that upon receipt of these initial specifications, it would shortly indicate, pursuant to Internal Rule 23quinquies (3)(b), whether or not the Chamber considered that these projects "appropriately [give] effect to the award sought by the Lead Co-Lawyers and may be implemented" (E284, footnote 263).
3. On 12 February 2013, the Lead Co-Lawyers identified the following seven priority projects (organized into three categories) pursuant Internal Rule 23quinquies(3)(b) (E217/7/1):

First Category: Remembrance and Memorialization:

- (i) *Remembrance Day:* In order to obtain official and permanent recognition and to promote collective remembrance of crimes committed during the Khmer Rouge era, the Lead Co-Lawyers proposed the establishment of a public holiday of remembrance. They acknowledge both that this initiative requires the involvement of the Royal Government of Cambodia (“RGC”) and that consultations with the RGC have yet to take place;
- (ii) *Public Memorials Initiative:* The Lead Co-Lawyers propose to establish three to six memorial sites distributed throughout Cambodia. These memorial sites will include educational elements in order to enhance public knowledge and understanding of experiences under the Khmer Rouge regime. The Lead Co-Lawyers indicate that this initiative also hinges on the cooperation of governmental authorities, which to date has not been assured.

Second Category: Rehabilitation

- (iii) *Testimonial Therapy:* This project aims to provide Civil Parties in Case 002 with the means to address the psychological suffering caused by the crimes perpetrated against them by talking and recording the traumatic experiences with mental health workers. These testimonials would later be read aloud in public ceremonies in accordance with religious or spiritual beliefs and cultural practices. This project is planned in conjunction with the Transcultural Psychological Organization Cambodia (“TPO”).
- (iv) *Self-Help Groups:* This proposed project would provide the Case 002 Civil Parties with collective therapy through participation in eight group sessions, permitting them to talk about their suffering.

Third Category: Documentation and Education

- (v) *Mobile Exhibition and Education Project:* This proposed project seeks to establish an educational exhibition in order to inform and educate post-war generations of Cambodians about the crimes committed during the Khmer Rouge period. It envisages mobile and interactive events, which provide information through short movies and live testimonies by Civil Parties. This measure will be implemented by organisations identified as Kdei Karuna and Youth for Peace, with ADHOC and the Cambodian Defenders Project acting in an advisory capacity.
- (vi) *Permanent Exhibition:* A permanent exhibition is envisaged which includes “photographs, relicts, documents, multi media testimonies of Civil Parties and other survivors, artistic displays, historical dioramas and other interactive educational and dialogue components”. The purpose of this initiative is to educate the public about the Khmer Rouge regime.
- (vii) *Booklet on Adjudicated Facts on Case 002 and Civil Party Participation:* This project proposes a booklet on the ECCC proceedings, documenting Civil Party statements during the hearings and describing their participation in the Case 002 hearings. It would also summarise adjudicated facts of the crimes found in Case 002.

4. Regarding measures in the first category, the Chamber notes that one rationale for enacting Internal Rule 23 *quinquies* (3)(b) in the first place was the inability of the ECCC to enforce awards whose implementation was a matter for governmental authorities. Proof of the willingness of RGC or any other concerned parties (e.g. private landowner) to give effect to these measures will therefore have to be provided. The Chamber further notes that as a precondition to providing final approval for public memorials, detailed descriptions (including sketches or pictures if appropriate) should be provided of proposed designs and specific inscriptions.

5. With respect to the identified projects in the second and third categories, the Chamber seeks further clarification, as follows: Whose participation or endorsement is required for the proposed projects and has this been forthcoming? Specifically, who is the responsible entity for establishing and providing testimonial therapies and self-help groups? What is the proposed duration of the projects? In addition, noting that some projects are proposed in partnership with identified organizations, the Chamber would be grateful for clarification as to whether these organizations have agreed to participate and whether their participation is in turn dependent on funding being secured. Further, precise time-lines for the creation of, and/or likely life-spans of these initiatives would also be appreciated.
6. The Chamber considers that in principle the measures proposed under all three categories appropriately acknowledge the harm suffered by Civil Parties as a result of the commission of the crimes at issue in Case 002/01 and provide benefits to the Civil Parties which address this harm (Internal Rule *23quinquies* (1)) and will endorse them provided the additional information required is provided. The chamber requires the Lead Co-Lawyers to provide the additional information by 23 August 2013.
7. The Chamber notes that according to Rule *23quinquies* (3)(b), the Chamber may only endorse reparation measures pursuant to this sub-rule where sufficient funding has been secured. Accordingly, the Chamber requests the Lead Co-Lawyers to address this issue at the latest in their final claim for collective and moral reparations. Any update on the funding situation by 23 August 2013 would be appreciated.
8. In view of the above, the Chamber directs that written reparation submissions shall be filed by 26 September 2013. Filing in one of the three languages of the ECCC is permitted, with translations to follow. Further, the Lead Co-Lawyers will be granted up to one additional hour on the day already allocated to them during Closing Statements to finish presentation of their final claim.