

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

FILING DETAILS

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**NOTICE OF NEW PROCEDURE FOR DISCLOSURE OF CIVIL PARTY
APPLICATIONS FROM CASES 003 AND 004 TO CASE 002/002**

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NOTICE

1. In an effort to minimize any delay in the trial of Case 002/02 and in response to recent concerns and preferences expressed by Defence counsel regarding the disclosure to Case 002/02 of large numbers of Civil Party applications from Cases 003 and 004, the International Co-Prosecutor (“ICP”) has revised the procedure to be followed for disclosure of this category of documents.
2. On 24 July 2015, the Co-Prosecutor filed a motion to the Trial Chamber disclosing statements and civil party applications admitted in Case 004 that are relevant to Case 002/002, requesting that they be placed on Case File 002.¹ These included five OCIJ interviews and 47 civil party applications that relate to Trapeang Thma dam. On 27 July 2015, the Trial Chamber invited observations from the parties on the impact of this disclosure.
3. In response, both Counsel for Nuon Chea and Khieu Samphan indicated that they did not wish to review new civil party applications from Cases 003 and 004 that were relevant to Case 002/02, particularly if the Co-Prosecutors were not putting those documents before the Chamber and seeking their admission pursuant to Rule 87(3) and (4).²
4. As the Co-Prosecutors advised at the 27 July 2015 hearing, it is anticipated that only a small number of the Civil Party applications from Cases 003 and 004 will ultimately be placed before the Trial Chamber by either the Co-Prosecutors or other parties. The purpose of the disclosure of these documents is thus primarily to ensure that the Co-Prosecutors’ disclosure obligations are fulfilled and that the Chamber and parties have access to material from Cases 003 and 004 that is relevant to Case 002/02, should they wish to review and make use of such documents.
5. As of this date, there are a total of 1720 civil party applications that have been notified in Case 004 and another 487 civil party applications in Case 003. The review of those applications for materials relevant to Case 002 is a time-consuming process for which the Co-Prosecutors have limited resources. The recent disclosure followed the completion of an initial review by OCP of the Civil Party applications with complete English

¹ **E319/25** International Co-Prosecutor’s Disclosure of Documents from Case File 004 Relevant to Case 002 Pursuant to Case 004-D193/28, 23 July 2015.

² **Transcript (Eng), 27 July 2015, Counsel for Nuon Chea, p.18, at 09.42.59** [“I think we have now reached a moment that we should say, ‘Enough is enough. Let these civil party applications belong to where they were originally filed, in Case 003 and 004. Let them deal with it.’”]; **Transcript (Eng), 27 July 2015, Counsel for Khieu Samphan, p. 23, at 09.52.32** [“If there’s no particular point to them, let’s simply withdraw them...if the Prosecution is intending to use them either now or later on by requesting their filing, then I simply state that we should be given the time to look at them.”].

translations. OCP is now engaged in reviewing applications which are only available in Khmer, but have summaries from the Victims Support Section.

6. Due to the overlapping nature of the Case 003 and 004 investigations with Case 002/02, it is likely that a significant number of those applications will contain some information relevant to at least one segment of the Case 002/02 trial. For example, out of the second group of documents that are presently being reviewed, OCP has identified over 200 additional applications that contain some information or reference to the Trapeang Thma Dam. The number of civil party applications expected to be relevant to other Case 002/02 segments, such as the treatment of the Cham and Vietnamese, will be smaller but still substantial.
7. As with the first group of Trapeang Thma civil party applications disclosed from Case 004 to Case 002/02 on 23 July 2015, the ICP expects that a limited number of these materials will need to be placed before the Chamber – e.g., applications that come from or directly relate to a testifying witness, civil party or key allegations at trial. Nonetheless, disclosure of all such relevant materials remains important so that all parties have access to those documents.
8. Accordingly, in response to the concerns expressed by Defence Counsel at the 27 July 2015 hearing, and to allow the Defence the option of avoiding the burden of reviewing large numbers of civil party applications from Cases 003 and 004 which the Co-Prosecutors do not intend to move into evidence, the ICP will proceed with future disclosures of Civil Party applications from those Cases as follows.
9. In such disclosures, the ICP will provide one Annex listing the Civil Party applications from Case 003 and 004 that are expected to be put before the Chamber during the Case 002/02 trial proceedings, such as applications from or relating to Case 002/02 witnesses and those containing particularly probative or unique information on key trial issues. The remaining applications, that is those that the Co-Prosecutors do not expect to be put before the Chamber, will be identified in a separate Annex.
10. It is expected that this revised procedure will streamline the disclosure process, allow the parties to focus on the material most likely to be put before the Chamber and used during the Case 002/02 trial proceedings, but at the same time ensure that all relevant material from Cases 003 and 004 is disclosed and made equally available to all parties.

11. The ICP will follow this new procedure starting with the next group of Trapeang Thma Case 004 civil party applications, which will be disclosed as soon as possible following authorization by OCIJ.

Respectfully submitted,

Date	Name	Place	Signature
4 August 2015	Nicholas KOUMJIAN Co-Prosecutor	Phnom Penh	