

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

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(group 2)

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**NOTICE OF APPEAL OF CO-LAWYERS FOR CIVIL PARTIES (GROUP 2)
ON THE REPARATION ORDER**

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KAING Guek Eav alias DUCH

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Ms. Christine MARTINEAU

Co-Lawyers for Civil Parties-Group 2 herewith give notice of appeal, in accordance with Internal Rule (“IR”) 105(3) (Rev.3) and 107(4).

The Appeal is submitted on behalf of the following Civil Parties: Mr. BOU Meng (D25/1), Ms. CHHIN Navy (D25/2), Mr. CHUM Mey (D25/3), Mr. CHUM Sirath (D25/6), Ms. PHUNG Guth Suntary (D25/5), Ms. IM Sunthy (D25/7), Mr. THAT Lorn (D25/21), Mr. SEANG Vanndi (D25/13), Ms. IEM Soy (E2/21), Mr. SIN Lim Sea (E2/25), Ms. UL Say alias Ream (E2/24), Ms. PENH Sokhen (E2/66) and the following Civil Party applicants of group 2 who were rejected as Civil Parties by the Trial Chamber: Ms. NAM Mon (E2/32), Ms. CHHAY Kan alias LEANG Kan (E2/35), Ms. HONG Savath (E2/83), Mr. CHHOEUM Sitha (E2/22) and Ms. NHEB Kimsrea (E2/64).

The written authorization to file the Appeal is attached.¹

Following requests of Co-Lawyers for Civil Parties –Group 2 were rejected²:

- Compilation and dissemination of apologetic statements including the comments of the Civil Parties on these apologies³
- 2nd request: Writing a letter to the Government requesting State apology⁴
- 3rd and 4th request: Installation of memorials in S-21 and Choeung Ek and transformation of Prey Sar as a memorial site⁵
- 5th request: Paid visits for Civil Parties to memorial sites⁶
- 6th request: Provision of medical treatment and psychological services for Civil Parties⁷

¹ The five Civil Party applications which were declared inadmissible submit a copy of the authorization and refer to the original ones submitted in the notice of appeal against the Judgment, Doc.No. E188/6.

² This Appeal is limited to the listed rejected requests. See requests in detail in the Joint and Final submissions, (See note 2 and 3 below).

³ Civil Parties’ Co-Lawyers’ Joint Submission on Reparations”, E159/3, 14 September 2009 (hereinafter: Joint Submission), para.. 45.

⁴ Co-Lawyers for Civil Parties (Group 2) – Final Submission, E159/6, 5 October 2009, paras 14-21 (hereinafter Final Submission), paras. 9-14.

⁵Final Submission paras. 15, 16.

⁶ Ibid., para. 17.

⁷ Ibid., para. 18.

- 7th request: Production and dissemination of audio and video material about the trial⁸
- 8th request: Naming 17 public buildings with victims' names and ceremonies⁹
- 9th request: Writing a letter to the Government requesting part of the entrance fees of S-21 and Choeng Ek be used for reparations¹⁰

The Trial Chamber ("TC") rejected most of these requests¹¹ and only granted the 1st request partly but rejected the publication of the comments of Civil Parties on the apologies.¹²

Pursuant to IR 105(3) and IR 105(2)(a) and (c) the grounds of appeal have to be specified in the notice of appeal.

SUMMARY OF APPEAL GROUNDS

I. First Ground

The rejection of the requests is based on an error on a question of law, violates the fundamental principal of procedural fairness to provide reasoned decisions and invalidates the judgment in this regard.

1. The TC analyses all 36 requests for reparations by all groups of Civil Parties in only 9 paragraphs.¹³ In this analysis, the TC abstracts the requests and does not point out exactly which request is analyzed under which paragraph and makes no references to the requests. The TC's inadequate and insufficient reasoning infringes the fundamental principle of law that proper reasons must be given for a judicial decision.

II. Second Ground

The Rejection of Requests 1, 3, 4 and 7 is based on an error on a question

⁸ Ibid., para. 19.

⁹ Ibid., para. 20.

¹⁰ Ibid., para. 21.

¹¹ Judgment, 26 July 2010, Doc.No. E188, paras. 669-674.

¹² Ibid., para. 668.

¹³ Ibid., paras. 667-674.

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of law/Internal Rules invalidating the judgment by violating Internal Rules 21(1), 21(1)(a), 21(1)(c) and 23.

2. The Court should overturn the rejection of the reparation requests 1, 3, 4 and 7 because the TC committed an error of law/Internal Rules when it ignored the clear meaning of the requests when it rejected them for their lack of specificity. By rejecting the requests TC violated its duty to safeguard the interests of Victims (IR 21), to guarantee fairness (IR 21 (1) (a)) and to respect Victims' rights (IR 21 (1) (c)). There is no legal basis for the requested degree of specificity.

III. Third Ground

The Rejection of Requests 2, 5, 8 and 9 is based on an error on a question of law/Internal Rules invalidating the judgment and violates Internal Rules 100 (1) (Rev.3) by not taking a decision concerning these requests.

3. The TC did not analyze the requests 2, 5, 8 and 9 and therefore violated Rule 100 (1) by not making any decision on these Civil Party claims. This omission is an error of law/Internal Rules that invalidates the judgment regarding the rejections of these requests.

IV. Fourth Ground

The Rejection of Request 6 is based on an error on a question of law/Internal Rules invalidating the judgment and violating Internal Rule 23(1)(b).

4. The TC's decision is based on a wrong understanding of the term "collective and moral reparations" as stipulated in Rule 23(1)(b) by assessing this request as being outside of the scope of reparation before this Court.

V. Fifth Ground

The Rejection of Request 6 is based on an error of a question of law/Internal Rules invalidating the judgment and violating Rule 23.

5. The prerequisite of proof establishing a link between the measures sought by each

claimant and the crimes for which KAING Guek Eav has been found responsible, as required by the TC, has no legal basis, neither in domestic nor in international law.

VI. Sixth Ground

The Rejections of Requests 1, 2, 3, 4, 5, 7, 8 and 9 are based on an error of fact which has occasioned a miscarriage of justice.

6. By not rendering a decision on Requests 2 and 9 or overlooking the clear meaning of these requests, the decision of the TC is based on an error of fact.
7. By rejecting Requests 1, 3, 4 and 7 on the grounds they lacked specificity, although they had been sufficiently detailed, the TC's decision is based on an error of fact.
8. By not rendering a decision at all on the Requests 5 and 8, the TC committed an error of fact.

V. Conclusion

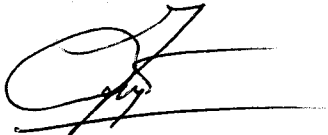
9. Co-Lawyers for Civil Parties will submit within sixty days of notification of this brief the substantive grounds of Appeal.

Co-Lawyers for Civil Parties will request

- To declare the Appeal admissible;
- To overturn the rejection of reparation requests; and
- To grant all requested reparations of Co-Lawyers for Civil Parties -Group 2.



Mr. HONG Kimsuon



Mr. YUNG Phanit

Mr. KONG Pisey



Ms. Silke STUDZINSKY

Signed in Phnom Penh, Kingdom of Cambodia on 6 September 2010

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