

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

**FILING DETAILS**

**Case No:** 002/19-09-2007-ECCC/SC      **Party Filing:** Office of Administration  
**Filed to:** Supreme Court Chamber      **Original language:** English  
**Date of document:** 28 April 2021

**CLASSIFICATION**

**Classification of the document  
suggested by the filing party:** PUBLIC

**Classification by OCIJ  
or Chamber:** សាធារណៈ/Public

**Classification Status:**

**Review of Interim Classification:**

**Records Officer Name:**

**Signature:**




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**OFFICE OF ADMINISTRATION'S RESPONSE TO THE CIVIL PARTY LEAD CO-LAWYERS' REQUEST TO POSTPONE THE APPEAL HEARING PLANNED FOR  
17-21 MAY 2021**

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1. The Office of Administration (“OA”) hereby responds to the *Civil Party Lead Co-Lawyers’ Request to Postpone the Appeal Hearing Planned for 17-21 May 2021*.<sup>1</sup> This response is filed within the Chamber’s deadline, communicated by the Senior Legal Officer’s email of 19 April 2021.<sup>2</sup>

### **Postponement**

2. OA takes no position on a postponement of the 17-21 May 2021 hearings and defers to the Chamber’s decision in this regard. OA will accommodate any order of the Chamber.<sup>3</sup>

3. To OA’s knowledge, neither the Chamber nor parties have solicited expert advice related to the development of Covid-19 in the Cambodian context. In the OA’s respectful submission, the proposed *deferral* of hearings “by a period of at least two months, to July 2021”<sup>4</sup> is therefore uninformed and speculates on the improvement of the Covid-19 situation in the foreseeable future.

4. If the Chamber is of the view that a hearing is not viable in May, OA observes that oral submissions may be replaced by a written process<sup>5</sup> to maintain the current case projections and public expectations. As always, OA stands ready to facilitate translations in a timely fashion.<sup>6</sup>

### **Hearing modalities and courtroom adjustments**

5. Since November 2020 at the latest, OA has maintained regular contact with the Chamber through its Senior Legal Officer about the timing and modalities of the case 002/02 appeal hearings. The Court Management Section (“CMS”) informed the Chamber that it would prepare for any modality (including an “in-person”, fully remote or hybrid hearing) pending a decision by the Chamber, and that it would acquire digital infrastructure to accommodate participants who cannot be physically present in the ECCC Courtroom at the time of hearing.

6. On 19 March 2021, the Information and Communication Technology Section (“ICTS”) completed the procurement of a digital conference suite to accommodate remote participants

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<sup>1</sup> Case File No. 002/19-09-2007-ECCC/SC (Document No. F61), filed 25 April 2021 (informally shared on 19 April 2021) (“Lead Co-Lawyers’ Request”).

<sup>2</sup> Email from Supreme Court Chamber’s Senior Legal Officer dated 19 April 2021 (Annex A).

<sup>3</sup> Additional financial resources required as a result of any postponement will need to be identified and offset against financial cuts in other activities.

<sup>4</sup> Lead Co-Lawyers’ Request, para. 22.

<sup>5</sup> See Lead Co-Lawyers’ Request, para. 9.

<sup>6</sup> If the hearings (in any format) are replaced in their entirety by a written process, the limited financial resources earmarked for the hearings may be reallocated to augment the new requirements of the parties, in order to support the most efficient and timely written process possible.

at a hearing. Since then, ICTS and CMS staff have been receiving training on using and integrating the platform into existing courtroom infrastructure.

7. Separately, the Building Management Unit in close cooperation with the General Services Section and CMS engaged external contractors to make adjustments to the ECCC courtroom to comply with Covid-19 risk-mitigation measures. Measures include the installation of reinforced glass screens and partitions consistent with the practice of other Cambodian courts<sup>7</sup> and international tribunals. Upon OA's initiative and invitation, the Covid-19 Medical Liaison Officer of the UN Resident Coordinator's Office visited the ECCC Courtroom on 5 April 2021 along with the International Organization for Migration's<sup>8</sup> Chief of Mission and First Line of Defence Coordinator to receive a briefing from the Security and Safety Section<sup>9</sup> and CMS on the proposed physical adjustments and Covid-19 risk-minimisation protocols.<sup>10</sup> The representatives provided recommendations in line with Covid-19 health standards, which were finalised in the report attached as Annex C.<sup>11</sup>

8. Physical adjustments to the ECCC Courtroom will be implemented in advance of the currently scheduled 17-21 May hearing dates, in compliance with the abovementioned report.<sup>12</sup>

9. IT infrastructure will be integrated in advance of the currently scheduled hearing dates. Upon the Chamber's decision on the conduct of any hearing, CMS and ICT will be in a position to allocate IT resources to participants who will not be present in the ECCC Courtroom, and extend the necessary technical assistance. CMS will offer software training for remote participants in the week prior to any hearing date.

### **Response**

10. Based on the foregoing, and in response to the Lead Co-Lawyers' Request:

- a. The measure sought in para 72(iii) is addressed by the present filing;

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<sup>7</sup> See Annex B for an illustration of measures adopted by the Sihanoukville Provincial Court of First Instance.

<sup>8</sup> IOM is designated by the UN Resident Coordinator in Cambodia to provide first-line-of-defence services in response to Covid-19 to all UN staff and dependents in Cambodia.

<sup>9</sup> Being the designated UNAKRT Covid-19 focal points per the UN Country Team.


<sup>10</sup> The scope of this report is limited to measures in and around the ECCC Courtroom. Logistical factors related to parties' access to IT equipment; travel to and from the ECCC compound; government-imposed curfews, lockdowns and other movement restrictions are beyond the scope of the report. Such factors may be addressed following an order of the Chamber on the conduct of any hearings, which OA will duly facilitate.

<sup>11</sup> See Annex C. Note that court proceedings are exempted from the prohibition on gatherings of more than 20 individuals referred to in the report. See Article 5 of Sub-Decree No. 57 ANK-BK (Annex D).

<sup>12</sup> In addition, OA has requested the on-site presence of the report's signatories or other suitably qualified medical professionals during any hearings.

- b. The measure sought in para 72(v) is addressable by the Chamber; and
- c. With regard to the measure sought in para 72(iv), the presence of *all* parties (including civil parties) forms part of the overall planning process of any hearing and may in the present instance be accommodated subject to the Chamber's decision on the conduct of any hearing.

Respectfully submitted,

28 April 2021	H.E. Tony Kranh Acting Director of Administration	Phnom Penh, Cambodia	
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