

**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:** EN

**Date of Document:** 12 October 2021

**CLASSIFICATION**

**Classification of the document: suggested** PUBLIC

**by the filing party:**

**Classification by Chamber:**

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**Signature:**



**CIVIL PARTY LEAD CO-LAWYERS' URGENT REQUEST TO FILE IN ONE LANGUAGE,  
AND FOR AN EXPEDITED FILING SCHEDULE**

**Filed by:**

**Civil Party Lead Co-Lawyers**

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TY Srinna	Nushin SARKARATI

**Before:**

**Supreme Court Chamber**

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

**Distribution to:**

**Office of the Co-Prosecutors**

CHEA Leang  
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**The Accused**

KHIEU Samphân

**Co-Lawyers for the Defence**

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Anta GUISSÉ

## I. Introduction

1. The Civil Party Lead Co-Lawyers (“Lead Co-Lawyers”) hereby request leave to submit a filing in one language only, and seek an expedited schedule for responses and replies, as well as urgent provisional relief pending a final decision. The matter is urgent because it concerns a decision of the Office of Administration (“OA”) part of which will take effect at the end of October with potentially irreversible effects.
2. The filing will address certain misunderstandings by OA regarding the framework for civil party representation under the Internal Rules; and seek an order for the OA to ensure the continued provision of resources sufficient for the Lead Co-Lawyers to provide effective representation.
3. In late September the International Lead Co-Lawyer submitted two memoranda to the OA explaining her resourcing needs for the coming quarter, and the remainder of the case.<sup>1</sup> A significant volume of work remains to be done, most (though not all) of which the OA has recognised as falling within our mandate, including civil party meetings, declassification submissions, and reporting on reparations implementation. Based on previous communications with the OA, the Lead Co-Lawyers expected that their consulting resources would be continued at some level, even if hours for the International Lead Co-Lawyer may be reduced.<sup>2</sup> However, on the evening of Friday 1 October 2021 the International Lead Co-Lawyer was informed by the OA that (i) parts of the work detailed will not be remunerated since they are considered to fall outside the Lead Co-Lawyers’ mandate; and (ii) her consultancy on the international side would be terminated at the end of October.<sup>3</sup> Immediately, and again on 4 October 2021 and 6 October 2021, the International Lead Co-Lawyer requested clarification of the second point, as to whether a new consultancy could be provided, albeit on different terms, for November and December.<sup>4</sup> Having received no clarification, she submitted a further memorandum on 5

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<sup>1</sup> Memorandum from International Lead Co-Lawyer to Office of Administration, Re: Resources for Civil Party Lead Co-Lawyers’ Section – October to December 2021, 21 September 2021 [Attachment 1]; Memorandum from International Lead Co-Lawyer to Office of Administration, Re: Resources for Civil Party Lead Co-Lawyers’ Section – October to December 2021, 29 September 2021. [Attachment 2]

<sup>2</sup> Copies of all correspondence will be filed as attachments with the filing when submitted. Key documents only are submitted with this filing, in the interests of time.

<sup>3</sup> See Email exchange between Office of Administration and International Lead Co-Lawyer. [Attachment 3]

<sup>4</sup> See Email exchange between Office of Administration and International Lead Co-Lawyer. [Attachment 3]

October asking the OA to reconsider its decision.<sup>5</sup> On 11 October 2021 the OA responded with a memorandum providing reasons and declining to reconsider the earlier decision.<sup>6</sup>

## II. Applicable law

4. Article 7.1 of the Practice Direction requires all documents to be filed in Khmer as well as in English or French. However Article 7.2 provides that “[i]n exceptional circumstances, the Co-Investigating Judges or a Chamber of the ECCC may authorize a party to file a document in French or in English in the first instance, provided however that a Khmer translation must be filed before the Chamber at the first opportunity.”
5. The Supreme Court Chamber has further elaborated that “permission to file in English or French only, in addition to being justified by extraordinary circumstances, is necessarily predicated upon an assumption that the national component of the filing party is sufficiently informed of the content of the filing and has suffered no prejudice in expressing its position.”<sup>7</sup>
6. The Practice Direction on Filing of Documents Before the ECCC states that responses and replies shall respectively be filed within ten and five calendar days of notification.<sup>8</sup>

## III. Submissions

7. The current circumstances are exceptional because of their urgency.
8. A decision is required, at least on a provisional remedy, before the end of October, when the OA’s decision to terminate the Lead Co-Lawyers’ international consultancy resources will take effect.
9. This filing has been prepared with the greatest speed possible. Owing to the Pchum Ben holidays, it was not possible to file it before today.
10. The Lead Co-Lawyers estimate that their filing addressing the errors in the OA’s decision will be ready in one language with a complete table of authorities by 18 October. However as the filing is expected to exceed twenty pages, translation into Khmer is likely to take at least a

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<sup>5</sup> Memorandum from International Lead Co-Lawyer to Office of Administration, Re: Resources for Civil Party Lead Co-Lawyers’ Section – October to December 2021, 5 October 2021. [Attachment 4]

<sup>6</sup> Memorandum from Office of Administration to International Lead Co-Lawyer, Reasons for decision on your resource request for October-December 2021, 11 October 2021. [Attachment 5]

<sup>7</sup> E463/1/1/1 Decision on Co-Prosecutors’ Request to File Response in One Language, 30 November 2018, para. 8.

<sup>8</sup> Articles 8.3 and 8.4, Practice Direction on Filing of Documents Before the ECCC.

week. It is estimated that filing in two languages could not be done before 26 October. The deadline for responses would fall on 5 November or later, depending on when notification occurs. It would therefore be impossible for the Supreme Court Chamber to rule before the decision of the OA under challenge is implemented.

11. If consulting resources are terminated at the end of this month, it may become impossible to return to the current situation, since our consultant who is highly familiar with the case and the work required at this stage, is likely to leave Cambodia and/or find other work.
12. In light of this situation, on 8 October, the Lead Co-Lawyers requested the OA to suspend their decision (by continuing existing consulting resources) until the Supreme Court Chamber is able to take a decision.<sup>9</sup> No response has been received.
13. The Lead Co-Lawyers therefore seek leave to file in one language and request the Chamber to fix an expedited schedule for responses and replies. The Lead Co-Lawyers anticipated OA would be assisted by knowing any such schedule in advance. The Lead Co-Lawyers assure the Chamber that the National Lead Co-Lawyer is fully informed on these matters and is not disadvantaged in this instance by filing in one language.
14. Alternatively, the Lead Co-Lawyers request that the Supreme Court Chamber make a provisional order for the continuation of resources to the Lead Co-Lawyers pending the resolution of this matter by the Chamber. The International Lead Co-Lawyer's remunerable hours could be reduced during this period in order to ensure that this would not incur costs for the Court.

The Lead-Co Lawyers respectfully request that the Supreme Court Chamber:

- (1) **GRANT** the Lead Co-Lawyers' leave to file submissions on this matter in English by 18 October 2021, with a Khmer version to follow at the earliest opportunity;
- (2) **ORDER** that any responses to the submissions be filed in one language by 22 October 2021, with the second language version to follow at the earliest opportunity;
- (3) **ORDER** that any replies be filed in one language by 26 October 2021, with the second language version to follow at the earliest opportunity;


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<sup>9</sup> See Email exchange between Office of Administration and International Lead Co-Lawyer [Attachment 3].

or alternatively to:

- (4) **ORDER** that the Lead Co-Lawyers' current consultancy resources are maintained pending a final decision on this matter by the Supreme Court Chamber.

Respectfully submitted,

Date	Name	Place	Signature
12 October 2021	PICH ANG National Lead Co-Lawyer	Phnom Penh	
	Megan HIRST International Lead Co-Lawyer	London	