



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គការសហមេធាវីនាំមុខតំណាងដើមបណ្តឹងរដ្ឋប្បវេណី

**Civil Party Lead Co-Lawyers' Section
Section des avocats principaux pour des parties civiles**

October 12, 2022.

To: All Civil Party Lawyers

Dear Counsel:

RE: Professional Obligations regarding Client Documents

Recently, newspapers have published reports stating that a civil party lawyer gave approximately 1400 documents related to their clients' cases to a third party while other civil party lawyers have recently removed several boxes of documents from their offices at the ECCC.

We are writing to remind you of your professional obligations as lawyers to your clients and to the Bar Association of Cambodia. We note the following provisions:

Article 19 of the Cambodia's *Code of Ethics for Lawyers of the Bar Association of the Kingdom of Cambodia*:

"All lawyers have the duty of confidentiality towards their clients in accordance with the Law on the Bar. Lawyers shall not disclose the confidential information of their clients unless with informed consent from clients or permitted or required by laws."

Article 58 of the *Law on the Bar* further states that,

"Lawyers shall maintain absolute confidentiality...Lawyers may not abuse the confidentiality of the profession and may not be forced to abuse the confidentiality of their professions, even before the court. The

following shall be considered as confidential: consultation, advice, and non-official documents prepared by the lawyer for his or her client, and correspondence sent between the lawyer and his or her client.”

Rule 22 of the *Internal Rules of the ECCC* refers to the *Code of Ethics* and the *Law on the Bar*, while clearly mentioning that, “All communications between lawyers and their clients shall be confidential and shall not be listened to recorded or copied by others.”

All documents prepared in relation to a case belong to the client and not to counsel. This includes any working documents prepared by counsel as well as documents filed with the Court. In this regard, unless a document has been filed in a specific case and is not classified as confidential, it cannot be revealed or given to anyone not a party to the litigation without the Court’s order or the client’s informed consent.

Such informed consent requires at a minimum that the client understand the purpose of each document, the potential impact of handing over the document, including the release of personal information. The client should give such consent in writing.

As you know, the Supreme Court Chamber will render a decision regarding reclassification of documents. Once that decision has been rendered, the Office of the Lead Co-Lawyers will work with the Civil Party lawyers to take all directed steps and measures to protect Civil Party information before documents are declassified. In the meantime, all Civil Party documents should be preserved and maintained in a secure manner.

We trust that you will preserve these documents and act in good faith. If you have already released documents, please provide details of the categories of documents, as well as whether your clients have provided informed consent, as soon as possible, and no later than October 20, 2022.

If you have any questions, please let us know.

With regards,

Ang PICH
National Lead Co-Lawyer

Falguni DEBNATH
International Lead Co-Lawyer