

**BEFORE THE TRIAL CHAMBER****EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** Mr KHIEU Samphan**Filed to:** Trial Chamber**Original Language:** French**Date of Document:** 8 May 2013**CLASSIFICATION****Classification of the Document Suggested by the Filing Party:** Public**Classification by the Trial Chamber:** សាធារណៈ/Public**Classification Status:****Review of provisional classification:****Records Officer's Name:**


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**Request to Hold a Trial Management Meeting for Fixing a Complete Schedule for the Last Remaining Trial Segments of Case 002/01**

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**Before:****The Trial Chamber**

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**Co-Prosecutors:**

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Andrew CAYLEY

**All Civil Party Lawyers****All Defence Teams**

**MAY IT PLEASE THE TRIAL CHAMBER**

1. On 8 April 2013, the Supreme Court Chamber (“the Supreme Court”) issued its Decision on the Co-Prosecutors’ Immediate Appeal of the Trial Chamber’s Decision Concerning the Scope of Case 002/01.<sup>1</sup>
2. On 14 March, 10 days after being admitted to the Khmer-Soviet Friendship Hospital, Mr IENG Sary died, and as such, the proceedings against him were immediately terminated.
3. On 26 April, the Trial Chamber (the “Chamber”) issued its new decision on the severance of charges in Case 002 (“New Severance Order”).<sup>2</sup>
4. In the decision, the Chamber gave detailed reasons it considered it was in the interest of justice to limit the scope of the current trial to the bounds it had set in its prior decisions.
5. Thus, the Chamber did not grant the requests by the Co-Prosecutors, the Civil Parties and Mr Nuon Chea’s Defence to add further charges to Case 002/01, or for that matter, the request for the immediate commencement of trial on the totality of the facts alleged in the Closing Order.
6. The main reasons for the Chamber’s decision included the fact that it considered that significant trial management challenges would stem from extension of the scope of the trial.<sup>3</sup>
7. In its decision, the Chamber indicated that it was close to concluding all pending decisions on the admissibility of documents proposed to be placed before the Chamber. Therefore, allowing parties to propose new documents to be placed before the Chamber would further increase the Chamber’s workload, and thereby prolong the trial.

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<sup>1</sup> **E163/5/1/13**, Decision on the Co-Prosecutors’ Immediate Appeal of the Trial Chamber’s Decision Concerning the Scope of Case 002/01, Supreme Court Chamber, 8 February.

<sup>2</sup> **E284**, Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, 26 April 2013.

<sup>3</sup> **E284**, Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, 26 April 2013, para. 144.

8. Further, the Chamber pointed out that it had started preparing the schedule for the last trial segments, namely, the ones relating to the character of the accused and the impact of the crimes on the victims.<sup>4</sup> It also declared that it had made a final determination on which remaining experts, witnesses and Civil Parties would ultimately be heard, and that it would provide reasons why it considered that the remaining individuals who were not summoned, needed not be heard.<sup>5</sup>
9. On 6 May, a Chamber Legal Officer sent an email to the parties<sup>6</sup> informing them of “the next group of witnesses/civil parties to testify at the conclusion of expert Philip SHORT’s testimony”.<sup>7</sup> The email indicates that a number of witnesses and Civil Parties will be heard regarding the impact of the crimes on the victims.
10. Mr KHIEU Samphan’s Defence understands this to be a provisional list. Indeed, since the Chamber’s announcement, Mr KHIEU Samphan’s Co-Lawyers, as well as all the parties, have been waiting for a final and reasoned list of the individuals who are to be heard. The Chamber has indicated several times that Case 002/01 is drawing to a close.<sup>8</sup> It is therefore legitimate for Mr KHIEU Samphan to request the Chamber to provide the final list of witnesses, Civil Parties and experts it is due to hear. This information will enable his Defence Lawyers to prepare his case with due diligence.
11. In the New Severance Order, the Chamber informs the parties that it is proposing to hold a trial management meeting later in the year to discuss the array of options open to the Chamber and the parties with regard to proceeding with the last remaining trial segments of Case 002.<sup>9</sup> However, Mr KHIEU Samphan’s Defence proposes that the Chamber hold a trial management meeting immediately as a matter of priority in order to hear the parties’ views

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<sup>4</sup> *Idem.*

<sup>5</sup> **E284**, Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, 26 April 2013, para. 44.

<sup>6</sup> Email from the Trial Chamber Legal Officer, Roger Phillips: “Notice of Next Witnesses/Civil Parties”, 6 May 2013, 9.46 a.m..

<sup>7</sup> *Idem.*

<sup>8</sup> **E275/1**, Decision on KHIEU Samphan’s Application for Immediate Release, 26 April 2013, para. 23.

<sup>9</sup> **E284**, Decision on Severance of Case 002 Following Supreme Court Chamber Decision of 8 February 2013, 26 April 2013, para. 54.

before it makes a final determination on how it will conduct the last remaining trial segments of Case 002.<sup>10</sup> In the interests of greater efficiency for both the Chamber and the parties, Mr KHIEU Samphan's Defence proposes including the items below on the agenda of the forthcoming trial management meeting:

- a. The Chamber's firm trial dates for the remaining segments of Case 002/01.
- b. The Chamber's issuance of a final, reasoned list of individuals scheduled to appear at trial in Case 002/01.
- c. Reconsideration of the time-limits for the filing closing briefs and each party's page allowance.
- d. Chamber's briefing on how it will conduct the hearings on the closing arguments (including dates and duration). This information is crucial, in that it will permit better time management by the parties.

12. The Defence Lawyers stress that it is important for the Chamber to hear their views before issuing its final decision on all the above items.

13. **FOR THESE REASONS**, Mr KHIEU Samphan's Defence requests the Trial Chamber to:

- **HOLD** a trial management meeting so as to hear the parties' views before fixing the schedule for the last remaining weeks of hearings in Case 002/01.
- **INCLUDE** the following items on the agenda of the scheduled trial management meeting:

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<sup>10</sup> Rule 79 (7) of the ECCC Internal Rules provides "In order to facilitate the fair and expeditious conduct of the proceedings, the Chamber may confer with the parties or their representatives, as applicable, by holding a trial management meeting. Such meeting shall be held in camera, unless the Trial Chamber decides otherwise. The purpose of this meeting will *inter alia* be to allow exchanges between the parties to facilitate the setting of the date of the initial or of the substantive hearings and to review the status of the case by allowing the Accused to raise issues in relation thereto, including his or her mental and physical condition."

- Providing the parties with a final, reasoned list of witnesses, Civil Parties and experts that the Chamber is due to call in Case 002/01;
- **Considerations** on the deadline for filing closing briefs and the page allowance for each party, in light of Accused IENG Sary's death;
- **Briefing** on how the Chamber will conduct hearings on closing arguments and the time allowance for each party.

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Date	Name	Place	Signature