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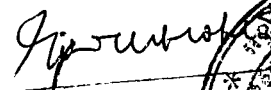
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Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens


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TRIAL CHAMBER

TO: All Parties, Case 002 7 July 2014

FROM: NIL Nonn, President of the Trial Chamber 

CC: All Trial Chamber Judges; Trial Chamber Senior Legal Officer 

SUBJECT: Agenda for further Initial Hearing in Case 002/02 (30 July 2014)

Introduction

1. On 11 June 2014, the Trial Chamber scheduled a further Initial Hearing in Case 002/02 for 30 July 2014 and, in the event that more time is necessary, 31 July 2014 (E311). The Chamber identified the following items for discussion: (i) the further specification of Civil Party reparation awards; (ii) the status of preliminary objections and review of legal issues relevant to Case 002/02; and (iii) the sequencing of the trial proceedings and initial review of potential witnesses, Civil Parties and experts. The Trial Chamber requested comments from the Parties on this proposed agenda by 19 June 2014. On 19 June 2014, the Co-Prosecutors provided comments, while the Lead Co-Lawyers provided their comments on 26 June 2014. The Chamber did not receive comments from the other Parties.
2. Further to the scheduling order, the Trial Chamber hereby issues the detailed Agenda for the further Initial Hearing. As the Chamber has previously noted, the purpose of the further Initial Hearing is to clarify issues before the start of Case 002/02, bearing in mind that general preliminary matters were considered at the Initial Hearing in June 2011 (see E307/1). During the further Initial Hearing, the Chamber will not hear arguments in relation to any issues other than those indicated in this Agenda.
3. The further Initial Hearing will be conducted in public, unless discussion of potential witnesses, Civil Parties and experts warrants a closed session. If any Party considers it necessary to proceed in closed session, an oral motion may be made. Any closed session

will be held at the end of the hearing. In public, all individuals proposed to be heard at trial shall be referred to by their pseudonym.

Agenda for further Initial Hearing (30 July 2014)

Item 1: Further specification of Civil Party reparation awards

4. The Trial Chamber is seised of the Civil Parties' final claim for reparations in Case 002/01 (E218/7/6), which will be adjudicated in the judgement in Case 002/01 in the event of conviction.

5. Pursuant to Internal Rule *80bis* (4), the Chamber will invite the Lead Co-Lawyers for the Civil Parties to provide an initial specification of the substance of the awards they intend to seek within any final claim for collective and moral reparations in Case 002/02 pursuant to Rule *23quinquies* (3)(b) (no more than 20 minutes), before inviting the other Parties to make any comments (no more than 10 minutes each). This initial specification shall include timeframes for the requests and any further action connected with the requests.

6. The Chamber notes that an appeal of the decision on the scope of Case 002/02 is currently pending before the Supreme Court Chamber and the outcome of this appeal may impact upon the reparation awards sought.

Item 2: Status of preliminary objections and review of legal issues relevant to Case 002/02

7. The Trial Chamber has recently informed the Parties that two of the remaining preliminary objections in Case 002, those concerning the statute of limitations for grave breaches of the Geneva Conventions and jurisdiction over the crime against humanity of deportation, are to be addressed at this time (E306). The Trial Chamber is sufficiently briefed on these objections and will issue written decisions as soon as possible.

8. The Chamber ordered the Parties to indicate by 9 June 2014 any legal issues that they intend to raise at the further Initial Hearing (E305). Only the KHIEU Samphan Defence availed itself of this opportunity (E305/11). The Chamber considers that, except for seeking clarification on the notion of Case 002/01 serving as a 'general foundation' for subsequent trials, all other matters raised by the KHIEU Samphan Defence are either addressed under other Agenda Items or not relevant to the further Initial Hearing. The Chamber reminds the Parties that the Case 002 Case File remains the same for all consecutive proceedings and that evidence already put before the Chamber in Case 002/01 serves as a foundation for Case 002/02 (see e.g. E302/5, para. 7). In any event, the KHIEU Samphan Defence will have no more than 20 minutes to make submissions on this issue and the other Parties no more than 10 minutes each to respond.

9. The Chamber will also invite the Parties to state whether at this stage of the proceedings they intend to seek any recharacterisation of the crimes and forms of

responsibility included in the Closing Order with regard to Case 002/02 (no more than 10 minutes each).

Item 3: Sequencing of the trial proceedings and initial review of potential witnesses, Civil Parties and experts

a. Sequencing of trial

10. The Trial Chamber will inquire as to the availability of the Parties during the remainder of 2014 and in the future for the commencement of evidentiary hearings in Case 002/02. As soon as possible after the conclusion of the further Initial Hearing, the Chamber will take this information into consideration and, pending determination of any other relevant issue, determine a date for the start of the evidentiary hearings. Further to an inquiry by the Trial Chamber, the Office of Administration confirmed that all relevant support services for the trial proceedings in Case 002/02 will be ensured “at any time”.

11. The Trial Chamber will invite the Parties to make submissions on the order of the presentation of evidence, with the aim to maximise the efficiency and coherence of the proceedings. The Co-Prosecutors have proposed that Case 002/02 be divided into five phases: Role of Accused; Security Centres; Treatment of Targeted Groups; Worksites; and Regulation of Marriage (Nationwide) (E305/6). The Co-Prosecutors have proposed the following order of trial: S-21; Internal Purges; Role of Accused/JCE Witnesses; Tram Kok Cooperative/Kraing Ta Chan Security Centre; Au Kanseng Security Centre; Phnom Kraol Security Centre; Genocide of Vietnamese; Genocide of Cham; 1st January Dam Worksite; Trapeang Thma Dam Worksite; Kampong Chhnang Airport Worksite; Forced Marriage; Overview (E305/6 and E305/6.1). The Lead Co-Lawyers have proposed the following order of trial: S-21; Internal Purges; Role of the Accused/JCE; Tram Kok Cooperatives and Kraing Ta Chan Security Centre; Treatment of Buddhists; Treatment of Vietnamese; Treatment of Cham; Movement of Population Phase 2 as it relates to the Treatment of Cham; 1st January Dam Worksite; Trapeang Thma Dam Worksite; Kampong Chhnang Airport Worksite; Au Kanseng Security Centre; Regulation of Marriage; and Experts (E305.7.1.4).

12. The Trial Chamber will invite the Defence to comment on this proposed order of trial (no more than 15 minutes each) before inviting the Co-Prosecutors and Lead Co-Lawyers to respond to the Defence submissions (no more than 15 minutes each). The Trial Chamber will decide the order of the trial proceedings as soon as possible and will issue a written decision after the conclusion of the further Initial Hearing.

b. Witness, Civil Party and Expert Lists

13. Next, the Trial Chamber will consider the lists of potential witnesses, Civil Parties and experts submitted by the Parties for Case 002/02 pursuant to the Trial Chamber’s order of 8 April 2014 (E305). Between them, the Parties have proposed 88 Civil Parties, 20 experts and 121 witnesses: a total of 229 individuals (E305/4.2, E305/5.2, E305/6.1 and E305/7.1.4). Additionally, the Co-Prosecutors have proposed 35 further ‘reserve witnesses’ (E305/6.1). In view of the size of these lists and the length of time it would

take to hear such a number of individuals, the Chamber will invite the Parties to discuss a reduction of their lists. The Chamber will also invite the Parties to comment on the objections to the lists raised by the KHIEU Samphan Defence (E305/9) and the National Co-Prosecutor (E305/10).

14. The KHIEU Samphan Defence objects to certain individuals proposed in the Co-Prosecutors' updated list and argue that they do not have sufficient information, in respect of certain individuals and the scope of the trial, to assess those proposed witnesses, Civil Parties and experts (E305/9). The Trial Chamber will invite the Parties to make submissions on the KHIEU Samphan Defence's position, before according the KHIEU Samphan Defence time to respond.

15. The Lead-Co Lawyers for the Civil Parties had initially included TCCP-19 as a Civil Party for whom protective measures are sought in their updated list (see E305/7.1.2). However, they have since indicated that protective measures are no longer necessary and have rescinded their request for protective measures for this individual (E305/7/2). The Trial Chamber will provide the other Parties with an opportunity to object to the inclusion of this Civil Party.

16. Each Party shall have a maximum of 30 minutes to address the Chamber on the above issues related to the lists of potential witnesses, Civil Parties and experts.