

**BEFORE THE TRIAL CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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**CIVIL PARTY LEAD CO-LAWYERS' REQUEST FOR CLARIFICATION
RELATING TO REMAINING CHARGES IN CASE 002**

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Before:

Trial Chamber

Judge NIL Nonn, President
Judge YA Sokhan
Judge Jean-Marc LAVERGNE
Judge YOU Ottara
Judge Claudia FENZ

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I. INTRODUCTION

1. The Lead Co-Lawyers for the Civil Parties (“Lead Co-Lawyers”) hereby request clarification as to the status of remaining charges in Case 002, namely, those related to Sang Security Center, Koh Kyang Security Center, Prey Damrei Srot Security Center, Execution Sites in District 12, Wat Kirirum Security Center, North Zone Security Center, Kok Kduoch Security Center, Wat Tlork Security Center, Steung Tauch Execution Site, Prey Sar Worksite, Srae Ambel Worksite, the Treatment of Buddhists (nationwide), Movement of the Population Phase 3, and crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory.

II. APPLICABLE LAW

2. Internal Rule 21(1) provides that victims have an interest in ‘legal certainty and transparency of proceedings’. Further, Internal Rule 21(1)(c) provides that ‘[t]he ECCC shall ensure that victims are kept informed and that their rights are respected throughout the proceedings’.
3. Internal Rule 89 *ter* provides that ‘[w]hen the interest of justice so requires, the Trial Chamber may at any stage order the separation of proceedings in relation to one or several accused and concerning part or entirely of the charges contained in an Indictment. The cases as separated shall be tried and adjudicated in such order as the Trial Chamber deems appropriate.’
4. Internal Rule 89 *quarter* provides,
 1. In order to ensure a fair, meaningful and expeditious judicial process, in consideration of the specific requirements of the proceedings before the ECCC, the Trial Chamber may decide to reduce the scope of the trial by excluding certain facts set out in the Indictment. The Trial Chamber shall ensure that the remaining facts are representative of the scope of the Indictment.
 2. Before excluding facts from the scope of the trial, the Trial Chamber shall hear the parties.
 3. The Trial Chamber shall terminate the proceedings concerning the excluded facts. Once the decision to reduce the scope of the trial becomes final, the facts excluded shall not form basis for proceedings against the same Accused Person(s). Evidence relating to the facts excluded may be relied upon to the extent it is relevant to the remaining facts.

4. A decision to reduce the scope of the trial shall not affect the participation of the Civil Parties or the composition of the consolidated group of Civil Parties.
5. Following the Trial Chamber's Decision on Additional Severance of Case 002,¹ the Supreme Court Chamber provisionally stayed charges outside of the scope of Case 002/01 and Case 002/02, reasoning that,

...comprehensive case management requires a tangible plan for the adjudication of the entirety of the charges in the Indictment and recalls that no part of proceedings may be left "in limbo"; rather, all cases created as result of a severance must be attended to, that is, adjudicated on the merits, suspended, or dismissed. Recognizing the lack of capacity to put the remaining charges to trial in the foreseeable future, the Supreme Court Chamber accordingly considers that the pending proceedings in relation to the charges remaining outside the scope of Cases 002/01 and 002/02 must be formally stayed. The declaration of such status only serves the goal of transparency by declaring what *de facto* has been done since the outset of the trial in Case 002. The proceedings in relation to the remaining charges may be resumed in whole or in part, whenever the possibility of adjudication on the merits or other definitive disposal arises.²

III. SUBMISSION

6. As Case 002/02 enters its final trial segments, the Lead Co-Lawyers note the lack of concrete information relating to charges outside the scope of Case 002/01 and Case 002/02. In its Decision on Additional Severance, the Trial Chamber did not address the issue of withdrawing charges contained in the Closing Order, noting that it 'need not address this issue at the current stage of proceedings.'³ Revision 9 of the ECCC Completion Plan ("Completion Plan") indicates that substantive hearings in Case 002/02 will be concluded during the last quarter of 2016.⁴ The Completion Plan also addresses the remaining charges and factual allegations, concluding that '[t]o date, the Chamber has not been seized with any request in this regard. The matter remains

¹ Decision on Additional Severance of Case 002 and Scope of Case 002/02, **E301/9/1**, 4 April 2014.

² Decision on KHIEU Samphan's Immediate Appeal against the Trial Chamber's Decision on Additional Severance of Case 002 and Scope of Case 002/02, **E301/9/1/1/3**, 29 July 2014, para. 89.

³ Decision on Additional Severance of Case 002 and Scope of Case 002/02, **E301/9/1**, 4 April 2014, para. 45.

⁴ ECCC Completion Plan, Revision 9, 30 June 2016, para. 8 (available at <https://www.eccc.gov.kh/sites/default/files/Completion%20Plan-Final-Rev9%20.pdf>, released 20 July 2016).

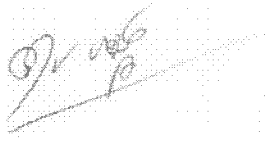
- under consideration.⁵ In light of the above considerations, the Lead Co-Lawyers submit that it is an appropriate time to address the remaining charges in Case 002.
7. The Lead Co-Lawyers recall that a total of 446 civil parties were admitted by the Office of Co-Investigating Judges as direct or indirect victims as a result of the charges falling outside of the scope of Cases 002/01 and 002/02. These charges relate to Sang Security Center, Koh Kyang Security Center, Prey Damrei Srot Security Center, Execution Sites in District 12, Wat Kirirum Security Center, North Zone Security Center, Kok Kduoch Security Center, Wat Tlork Security Center, Steung Tauch Execution Site, Prey Sar Worksite, Srae Ambel Worksite, the Treatment of Buddhists (nationwide), Movement of the Population Phase 3, and crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory.
 8. The Lead Co-Lawyers are particularly concerned considering their affirmative obligation to inform the civil parties as to the status of the proceedings. The civil parties have been parties to these proceedings since 2007 and have rights to legal certainty and to be informed with respect to all of the charges in Case 002, particularly as 446 civil parties are directly affected by the status of the remaining charges.
 9. The Lead Co-Lawyers therefore request that a work plan be issued that provides clear information as to the disposal of the remaining charges in Case 002 and provides for the right of all of the parties to be heard.

IV. REQUEST

10. The Lead Co-Lawyers respectfully request that the Trial Chamber:
 - (i) **ISSUE** a Trial Chamber Work Plan, to be communicated to the parties;
 - (ii) **PROVIDE** any additional clarifications or information relating to the remaining charges in Case 002 such that the Lead Co-Lawyers can fulfill their obligations to inform the civil parties under the Internal Rules.

⁵ *Ibid.*, para. 45.
CPLCL Request for Clarification of Remaining Charges

Respectfully submitted,

Date	Name	Place	Signature
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