



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

Practice Direction 02/2007/Rev.1

VICTIM PARTICIPATION

The Rules and Procedure Committee of the Extraordinary Chambers in the Courts of Cambodia (ECCC),

CONSIDERING the Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution under Cambodian law of Crimes committed during the Period of Democratic Kampuchea, signed on 6 June 2003 (hereinafter referred to as ‘the Agreement’),

CONSIDERING the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia with inclusion of the amendments as promulgated on 27 October 2004 (hereinafter referred to as ‘ECCC Law’)

CONSIDERING the Internal Rules of the ECCC, adopted by the Plenary Session of Judges on 12 June 2007 and signed into force on 19 June 2007,

ACTING in accordance with Rule 20(3) of the ECCC Internal Rules, which entitles the Rules and Procedure Committee to adopt Practice Directions relating to the functioning of the ECCC, subject to review in the subsequent Plenary Session,

HEREBY ISSUES this Practice Direction on victim participation (hereinafter referred to as ‘the Practice Direction 02/2007/Rev.1’):

Article 1. General Provisions

1.1 In addition to being called as witnesses, victims of the Democratic Kampuchea regime may participate actively in ECCC proceedings either by filing complaints with the Co-Prosecutors, as detailed in Article 2 below, or applying to be joined as civil parties to the Co-Investigating Judges or before the Trial Chamber, as detailed in Article 3 below.

1.2. The ECCC Victims Unit (Victims Unit) shall be the sole contact for victims or their representatives for participation in the proceedings. The Victims Unit may be contacted directly for all information and assistance related to victim participation at the following address:

ECCC Victims Unit
National Road 4
Chaom Chau, Dangkao, Phnom Penh
P.O. Box 71, Phnom Penh

Cambodia
Website: www.eccc.gov.kh
Email: victimsunit@eccc.gov.kh

Article 2. Procedure and formalities to file complaints

- 2.1.** The Co-Prosecutors are responsible for considering all written complaints or information alleging commission of crimes within the jurisdiction of the ECCC.
- 2.2.** Victims of such alleged crimes may bring complaints to the Victims Unit, who will forward them to the Co-Prosecutors for action. Victims Associations and lawyers for victims may also file complaints on behalf of their members or behalf of their clients.
- 2.3.** Complainants shall provide the following information:
 - a. The identity of the complainant;
 - b. The subject of the complaint;
 - c. A summary of the alleged criminal acts coming within the jurisdiction of the ECCC.
 - d. In addition, the complaint shall include, if available:
 - i. any details of potential witnesses;
 - ii. any piece of evidence in the complainant's possession; and
- 2.4.** Complaints shall be made on the Victim Participation Form (**Appendix A**). Complaints shall be sent or delivered to the Victims Unit at the address set out in Article 1.2. above.
- 2.5.** The Victims Unit is able to assist complainants in filing their complaints.
- 2.6.** The Victims Unit will forward all complaints to the Office of the Co-Prosecutors. All such complaints will be registered in the complaints register held by the greffier of the Office of the Co-Prosecutors. The Co-Prosecutors may request the Victims Unit to assist them in providing any notification to the complainants.
- 2.7.** In accordance with the Internal Rules, such complaints shall not automatically initiate criminal prosecution, and the Co-Prosecutors shall decide, at their discretion, whether to reject the complaint, include the complaint in an ongoing preliminary investigation, conduct a new preliminary investigation or forward the complaint directly to the Co-Investigating Judges. The Co-Prosecutors shall inform the complainant of the decision as soon as possible and in any case not more than 60 (sixty) days after registration of the complaint.
- 2.8.** In accordance with the Internal Rules, the Co-Prosecutors may change their decision at any time in which case the complainant shall be so informed as soon as possible and in any case not more than 30 (thirty) days from the decision.
- 2.9.** The Victims Unit and the Co-Prosecutors will ensure the confidentiality of all complaints

filed with the ECCC.

Article 3 Civil party applications

- 3.1.** Any victim of a crime coming within the jurisdiction of the ECCC may join the proceedings as a civil party in a case concerning that crime.
- 3.2.** In order to be considered as a victim for the purposes of the ECCC:
 - a.** The applicant must be a natural person or legal entity that has suffered harm as a result of the commission of any crime within the jurisdiction of the ECCC.
 - b.** To be considered to have suffered harm, the applicant must show:
 - i.** Physical, material or psychological injury; and
 - ii.** Such injury to be the direct consequence of the offence, personal and have actually come into being.
 - c.** Psychological injury may include the death of kin who were the victim of such crimes.
 - d.** All victims satisfying these criteria have the right to apply to be civil parties without any distinction based on criteria such as current residence or nationality.
- 3.3.** Victims may only apply to be joined as civil parties to a case if the case is under investigation by the Co-Investigating Judges and up until the opening of proceedings in that case before the Trial Chamber.
- 3.4.** The Victims Unit shall assist applicants in processing applications and shall forward applications to the greffier of the Office of the Co-Investigating Judges or the Trial Chamber, as appropriate, through the Case File Officer.
- 3.5.** All Civil Party applications shall contain the following information:
 - a.** Details allowing verification of the applicant's status as a Victim;
 - b.** The alleged criminal acts;
 - c.** The domicile of the Victim, the registered office of the Victims' Association of which he or she is a member, or the address of the lawyer, as appropriate, with a view to service and notifications. Where this address is outside of Cambodia, an address in Cambodia shall be provided. This will generally be the address of the Civil Party's representative.
 - d.** The applicant should also attach any evidence of the injury suffered, or tending to show the guilt of the alleged perpetrator or accomplices.
- 3.6.** Civil Party applications shall be made on the Victim Participation Form (**Appendix A**). Once completed, they shall be forwarded to the Victims Unit.
- 3.7.** Completed applications are then transferred by the Victims Unit to the greffier of the Office of the Co-Investigating Judges or the Trial Chamber, as appropriate, through the Case File Officer together with all necessary information concerning common or collective representation. Where the PTC is seized of an appeal or application, the Co-Investigating Judges after making a

preliminary assessment of the application, shall notify the PTC of any new civil party application.

- 3.8. The Co-Investigating Judges and the Trial Chamber, as appropriate, will decide on the admissibility of the Civil Party application and such decision shall be open to appeal before the Pre-Trial Chamber or the Supreme Court Chamber depending on the stage of the proceedings.
- 3.9. Once a Victim has been joined as a Civil Party, the Victims Unit plays no role in the legal proceedings. However, it may still provide assistance, under judicial supervision, to resolve problems concerning membership of Victims' Associations, legal representation and protective measures.

Article 4. Representation of Civil Parties by Lawyers

- 4.1. Any victim participating in proceedings before the ECCC as a civil party has the right to be represented by a national lawyer, or a foreign lawyer in collaboration with a national lawyer.
- 4.2. The Victims Unit maintains a list of foreign and national lawyers registered with the BAKC who are available to represent the victims.
- 4.3. If victims choose a foreign lawyer, he or she shall work in conjunction with a national lawyer before the ECCC.
- 4.4. A group of civil parties may choose to be represented by a common lawyer drawn from the list held by the Victims Unit. The Victims Unit may help organise such common representation. If necessary, the judges may require a group of civil parties to choose common representation or may themselves appoint such representation.

Article 5. Victims Associations

- 5.1. Victims' Associations may assist civil parties. Victims' Associations are not themselves civil parties to the proceedings. They simply represent their members who are civil parties. Accordingly, the members of Victims' Associations shall still provide personal information about their application. They may, however, request the Co-Investigating Judges that such information be protected.
- 5.2. In order for a Victims' Association to be authorised to act on behalf of its members it must be admitted to the list of Victims' Association approved to act on behalf of civil parties before the ECCC, drawn up by the Victims Unit under the supervision of the Co-Investigating Judges and the Trial Chamber.
- 5.3. Application forms for admission to the list of approved Victims' Associations are available from the Victims Unit and may be downloaded from the ECCC website.
- 5.4. The Victims Unit will provide Victims with the list of approved Victims' Associations.

- 5.5.** In order to be included in the list, a Victims' Association shall provide the Victims Unit with documentation showing that it is validly registered or established in the country in which it is carrying on its activities.
- 5.6.** A Victims' Association which is carrying on its activities in Cambodia shall register pursuant to the applicable procedure. For further information, please contact:
- Ministry of Interior
#275, Blvd. Norodom, Phnom Penh, Cambodia
Tel: 855-23-750-802/121-707/726-148
Fax: 855-23-212-708/726-052
Email: moi@interior.gov.kh, website: www.interior.gov.kh
- 5.7.** The sole fact that a foreign registered Victims' Association represents victims resident abroad before the ECCC shall not be construed as carrying on activities in Cambodia for this purpose;
- 5.8.** The Victims' Association shall provide proof that it is authorised to represent its members before the ECCC.
- 5.9.** All Victims' Associations may be represented by lawyers, through the procedure detailed in Article 4 above.
- 5.10.** A Victims' Association has the right to appeal the decision concerning its application for admission to the list before the Pre-Trial Chamber.
- 5.11.** In case of dismissal or absence of decision of the Victims Unit, Victims' Associations may appeal to the Pre-Trial Chamber within fifteen days of receiving notification of the decision of the Head of the Victims Unit or the end of the 30 day period, as appropriate.
- 5.12.** The fact that certain victims choose to take action through a Victims' Association shall not affect the right of other victims to be joined as civil parties in the same case.

Article 6. Filing, service and notification of documents

- 6.1** Once an application to be joined as a civil party has been accepted, all filing, service and notification of documents relating to the case shall be done with the greffier of the Office of the Co-Investigating Judges or the Chambers, as appropriate, through the Case File Officer, in accordance with the Practice Direction on filing of documents.
- 6.2.** Victims, their lawyers and Victims' Associations shall provide an address in Cambodia for this purpose.

Amended on 27 October 2008

Kingdom of Cambodia Nation Religion King



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Appendix A/Rev.1

Victim Information Form

PART A

PERSONAL INFORMATION ABOUT THE VICTIM

1. Name and first name:	
1.1. Name and first name in Khmer alphabet:	
2. All other name(s) ever used:	
2.1. All other name(s) ever used in Khmer alphabet:	
3. Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	4. Place of Birth:
5. Age/Date of Birth (dd/mm/yyyy): <input type="checkbox"/> Please tick if date of birth is different from ID document	6. Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widow/Widower <input type="checkbox"/> Other:
7. Nationality:	8. Occupation:
9. Father's or Tutor's Name:	9.1. Name in Khmer alphabet:
10. Mother's Name:	10.1. Name in Khmer alphabet:
11. How many dependants do you have? Please write number.	
12. Have you ever had any disability or disabilities? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please specify:	
13. Which of the following proof of identity do you have? Please indicate the number and attach a photocopy.	
Type of proof of identity	Number or other reference
<input type="checkbox"/> Identity card (also student or employee card)	
<input type="checkbox"/> Voting card	
<input type="checkbox"/> Letter from Local Authority	
<input type="checkbox"/> Driver's licence	
<input type="checkbox"/> Passport	
<input type="checkbox"/> Camp registration card	
<input type="checkbox"/> Card from humanitarian agency (such as UNHCR, WFP)	
<input type="checkbox"/> Other:	
<input type="checkbox"/> None	

14. Personal address.	
14.1. Permanent address. <i>If you do not have a specific address, please provide your last residence.</i>	
Number/Plot:	Street:
Group/Village:	Commune:
District:	Province/City:
Country:	
14.2. Present address. <i>If this is the same as your permanent address; please do not fill in here after.</i>	
Number/Plot:	Street:
Group/Village:	Commune:
District:	Province/City:
Country:	
14.3. Contact telephone number: <input type="checkbox"/> yourself or <input type="checkbox"/> other (<i>Please provide a name if other than your own number</i>):	
14.4. Personal e-mail address:	
15. Means of contact. <i>Please tick as appropriate.</i>	
I would like to be contacted at the address mentioned in question 14.1. <input type="checkbox"/> or at the address mentioned in 14.2. <input type="checkbox"/>	
OR I would like to be contacted through a(n):	
<input type="checkbox"/> Intermediary organisation:	
<input type="checkbox"/> Victims Association:	
<input type="checkbox"/> Individual acting on my behalf:	
<input type="checkbox"/> Lawyer(s):	
Cambodian:	Foreign:
15.1. Address.	
Number/Plot:	Street:
Group/Village:	Commune:
District:	Province/City:
Country:	
Telephone number:	
Fax number:	
E-mail address:	
16. Have you already submitted a complaint or a Civil Party application to the ECCC?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
<i>If yes, please indicate the Victims Unit registration number, the form of your participation, the place and date of the submission; and indicate the reasons why you are now filling in a new Victim Information Form.</i>	
Registration number (if any):	
Form of participation:	
Place:	Day Month Year
Reasons for filling in a new form:	

PART B

INFORMATION ABOUT THE ALLEGED CRIME(S)

Please attach answers to this section on a separate sheet of paper if necessary.

1. Please provide details of crime(s), along with any reasons why you believe they took place.
Location (<i>village, commune, district, province</i>):
Date (dd/mm/yyyy):
Description of Crime(s) (<i>what crimes occurred and how they occurred</i>):
2. Who do you believe is responsible for these crime(s) and why you believe this? <i>Please answer to the extent possible.</i>
3. Were you a victim of these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
3.1. Do you know any other victim(s) to these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please give if possible their names and addresses (if living), unless you know that they wish to remain anonymous, or it would put you or anyone else at risk:</i> <i>Please also give any other details that help to identify those persons, such as including current age (if deceased, age at death), nationalities, ethnicity, religion and occupation:</i>
3.2. Do you have any relationship with these victims (are they family members, neighbours, friends, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If yes, please indicate):</i>
4. Were you a witness to these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No
4.1. Do you know any other witness(es) to these crime(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please give if possible their names and addresses (if living), unless you know that they wish to remain anonymous, or it would put you or anyone else at risk:</i> <i>Please also give any other details that help to identify those persons, such as including current age (if deceased, age at death), nationalities, ethnicity, religion and occupation:</i>
4.2. Do you have any relationship with these witnesses (are they family members, neighbours, friends, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If yes, please indicate):</i>
5. Your safety: Do you fear any specific negative consequences for yourself or for anyone named in this form as a result of filling it in and sending it to the ECCC? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If so, please explain exactly what your fears are:</i>

PART C

APPLICATION TO BE JOINED AS A CIVIL PARTY

<i>You should only complete this Part if you wish to be joined as a Civil Party to a judicial investigation</i>
In order for the Court to accept you as a Civil Party, the injury you suffered must be: a) physical, material or psychological; b) the direct consequence of the offence, personal and have actually come into being. If your claim does not prove your identity and provide sufficient detail on the harm you suffered, it may be rejected by the Court's judges. For information on the connection between this harm and the crimes being investigated by the ECCC that needs to be shown, please contact the Victims Unit.
1. Please indicate the proceedings to which you wish to be joined: Case File No:

2. Please state the injury, loss or harm you have suffered, and give a brief description (such as physical injury, mental pain and anguish, loss of or damage to property):			
3. Were you examined by a doctor after the event or events occurred?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Did you receive any medical or psychological treatment?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. If yes, do you have any records regarding any medical or psychological treatment?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>If yes, please tick as appropriate and provide a photocopy, if available.</i>			
<input type="checkbox"/> Medical report from doctor, hospital or health centre	<input type="checkbox"/> X-rays	<input type="checkbox"/> Prescriptions/Invoices for medicines	
<input type="checkbox"/> Other. <i>Please specify:</i>	<input type="checkbox"/> None		
6. Does your condition persist today?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>If yes, please give details:</i>			
7. In respect of material or property loss, please provide any further details or physical records that help identify the extent of loss suffered:			
8. Do you have any preference as to the form of collective or moral reparation that you would like to obtain? <input type="checkbox"/> Yes <input type="checkbox"/> No			
<i>If yes, please give details:</i>			

PART D
SIGNATURES

1. SIGNATURE OF THE VICTIM			
<i>Please sign or add your thumbprint and date this Form, whether or not someone is acting on your behalf or assisting you in filling in this Form.</i>			
I hereby declare that:			
- To the best of my knowledge and belief, the information I have given in the present Form is correct, otherwise I will be liable under the applicable law.			
- I wish to participate in the proceedings before the ECCC by submitting this complaint.			
<input type="checkbox"/> In addition to submitting this complaint I also wish to be joined as a Civil Party.			
<i>If you apply for Civil Party participation, please tick the box above and ensure that you have filled in Part C of the form.</i>			
Location:	Day:	Month:	Year:
.....
Witnessed by/Signature or Thumbprint		Signature or Thumbprint of victim	
2. SIGNATURE OF THE PERSON ACTING ON BEHALF OF THE VICTIM AND CONSENT OF THE VICTIM			
Consent of the victim			
I,(Print name of the victim)			
consent to(Print name of the person acting on behalf of the victim),			
.....(Capacity of the person acting on behalf),			
to act on my behalf in submitting this Victim Information Form.			
Location:	Day:	Month:	Year:
.....
Signature or Thumbprint of person acting on behalf		Signature or Thumbprint of victim	

Before submitting this Application Form, please review it and tick the following as appropriate:

I have attached the following documents in support of this Form:

- 1.
- 2.
- 3.

I have signed or added my thumbprint on every page of this Form as well as any other documents accompanying it.

Please indicate total number of pages of this Form including additional pages and photocopies of documentation:

Victim:	Person acting on behalf:
<input type="checkbox"/> I have provided a photocopy of proof of identity in response to Question 13 of Part A. <input type="checkbox"/> I have provided contact information in response to Questions 14 and 15 of Part A. <input type="checkbox"/> I have signed or added my thumbprint on the first box in Part D.	<input type="checkbox"/> I have signed or added my thumbprint on the second box in Part D.

NOTE

Once the ECCC receives your Form, you will receive an acknowledgement. This acknowledgement will provide you with a registration number that you should use when communicating with the Court. If you send additional information to the Court, please use this registration number to ensure your application is properly updated. Please note that criminal proceedings take time and it may be a while before the ECCC judges make a decision on your application. This Form and the process of applying are free of charge. The Victims Unit may be contacted at the address below:

Victims Unit
ECCC Information Centre
No. 6A, Street 21,
Sangkat Tonle Basac I, Khan Chamcarmon,
Phnom Penh, Cambodia
Email: victimsunit@eccc.gov.kh
Tel: +(855) 023 214 291
Fax: +(855) 023 214 295