

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

FILING DETAILS

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**CIVIL PARTY LAWYERS' REQUEST FOR NECESSARY MEASURES TO BE
TAKEN BY THE PRE-TRIAL CHAMBER TO SAFEGUARD THE RIGHTS OF
CIVIL PARTIES TO CASE 004/2**

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ECCC MATERIALS

Core Legal Documents

1. Agreement between the United Nations and Cambodia Concerning the Prosecution under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea, Phnom Penh, 6 June 2003, art. 12(2). *Not attached – ECCC Law Compendium.*
2. Extraordinary Chambers in the Courts of Cambodia, Internal Rules (Rev. 9), 16 January 2015, rules 12, 12 *ter*, 21, 23, 23 *bis*, 23 *ter*, 23(1)(b) *quinquies*, 29, 69. *Not attached – ECCC Law Compendium.*
3. Law on the Establishment of the Extraordinary Chambers of the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea, 19 Aug. 2001, with inclusion of amendments as promulgated on 27 October 2004 (NS RKM 1004 006), art. 34 *new*. *Not attached – ECCC Law Compendium.*
4. Practice Direction on Filing of Documents Before the ECCC (Rev. 8), arts. 2.1, 2.5, 2007. *Not attached – ECCC Law Compendium.*

Case Law

Supreme Court Chamber

5. Case File No. 002/19-09-2007-ECCC (“Case 002”), **F26/2/2**, Decision on Co-Prosecutors and Civil Party Lead Co-Lawyers’ Request for Additional Time for Examination of SCW-5, para. 7, 30 June 2015. *Not attached – ECCC case file.*
6. Case File No. 001/18-07-2007-ECCC, **F28**, Appeal Judgment, para. 661, 3 February 2012. *Not attached – ECCC case file.*

Trial Chamber

7. Case 002, **E74**, Trial Chamber Response to Motions E67, E57, E56, E58, E23, E59, E20, E33, E71 and E73 Following Trial Management Meeting of April 2011, 2, 8 April 2011. *Not attached – ECCC case file.*

Pre-Trial Chamber

8. Case 002, **D404/2/4**, Pre-Trial Chamber Decision on Appeals Against Orders of the Co-Investigating Judges on the Admissibility of Civil Party Applications, paras. 52, 61, 96, 24 June 2011. *Not attached – ECCC case file.*
9. Case 002, **D411/3/6**, Pre-Trial Chamber Decision on Appeals Against Orders of the Co-Investigating Judges on the Admissibility of Civil Party Applications, paras. 37-38, 24 June 2011. *Not attached – ECCC case file.*

10. Case File No. 004/2/07-09-2009-ECCC (“Case 004/2”), **D359/24 & D360/33**, Considerations on Appeals Against Closing Orders, paras. 68, 95, 101-124, 205, 19 December 2019. *Not attached – ECCC case file.*

Office of the Co-Investigating Judges

11. Case 004/2, **D359**, National Co-Investigating Judge’s Closing Order, 16 August 2018. *Not attached – ECCC case file.*
12. Case 004/2, **D360**, International Co-Investigating Judge’s Closing Order (Indictment), 16 August 2018. *Not attached – ECCC case file.*
13. Case 004/2, **D362**, International Co-Investigating Judge’s Order on Admissibility of Civil Party Applicants, 16 August 2018, paras. 32, 34, 37-38, 41, 48. *Not attached – ECCC case file.*

Pleadings

14. Case File No. 004/07-09-2009-ECCC/OCIJ, **D381/20**, Civil Party Co-Lawyers’ Appeal Against the National Co-Investigating Judge’s Closing Order in Case 004, 6 December 2019. *Not attached – ECCC case file and annexed to this filing.*
15. Case 004/2, **D359/3/1**, International Co-Prosecutor’s Appeal of the Order Dismissing the Case Against Ao An (D359), paras. 100-108, 112, 20 December 2018. *Not attached – ECCC case file.*
16. Case 004/2, **D359/25**, International Co-Prosecutor’s Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (AO An) to the Trial Chamber, 4 February 2020. *Not attached – ECCC case file.*
17. Case 004/2, **D359/26**, Response to International Co-Prosecutor’s Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (AO An) to the Trial Chamber, 18 February 2020. *Not attached – ECCC case file.*
18. Case 004/2, **D359/27**, Request for Confirmation that all Required Administrative Actions Have Been Taken to Archive Case File 004/2, 24 February 2020. *Not attached – ECCC case file.*
19. Case 004/2, **D359/28**, International Co-Prosecutor’s Reply to Ao An’s Response to the ICP’s Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (Ao An) to the Trial Chamber, 3 March 2020. *Not attached – ECCC case file.*
20. Case 004/2, **D359/30**, International Co-Prosecutor’s Response to Ao An’s Request for Confirmation that All Required Administrative Actions have Been Taken to Archive Case File 004/2, 5 March 2020. *Not attached – ECCC case file.*
21. Case 004/2, **D359/27.1.1**, Request for confirmation that the Trial Chamber has not been lawfully seized of Case 004/02; in the alternative, request for time extension and

guidance for filing preliminary objections under Internal Rule 89, 30 December 2019. *Not attached – ECCC case file.*

22. Case 004/2, **D360/9**, International Co-Prosecutor's Response to Ao An's Appeal of the Case 004/2 Indictment, paras. 5-15, 120, 22 February 2019. *Not attached – ECCC case file.*
23. Case 004/2, **D360/34**, International Co-Prosecutor's Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (Ao An) to the Trial Chamber, 4 February 2020. *Not attached – ECCC case file.*
24. Case 004/2, **D360/37**, International Co-Prosecutor's Reply to Ao An's Response to the ICP's Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (AO An) to the Trial Chamber, 3 March 2020. *Not attached – ECCC case file.*
25. Case 004/2, **D360/39**, International Co-Prosecutor's Response to Ao An's Request for Confirmation that All Required Administrative Actions Have Been Taken to Archive Case File 004/2, 5 March 2020. *Not attached – ECCC case file.*
26. Case 004/2, **D362/5**, Appeal Against Order on the Admissibility of Civil Party Applications, 29 November 2018. *Not attached – ECCC case file.*
27. Case 004/2, AO An's Rule 80 Witness and Expert List Submission with Confidential Annex 1 and his Response to the International Co-Prosecutor's Rule 80 Witness and Expert List Submission, filed 28 January 2020. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*
28. Case 004/2, International Co-Prosecutor's Request for Extension to File her Witness and Expert List, filed 26 December 2019. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*
29. Case 004/2, International Co-Prosecutor's Request that the Trial Chamber Take Action to Obtain Access to the Case 004/02 AO An Indictment and Case File, filed 4 February 2020. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*
30. Case 004/2, International Co-Prosecutor's Response to Ao An's Request Regarding the Seizure of Case 004/2, filed 6 January 2020. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*
31. Case 004/2, International Co-Prosecutor's Rule 80 Witness and Expert List, filed 13 January 2020. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*
32. Case 004/2, Summary of AO An's Preliminary Objections under IR 89(1), filed 20 January 2020. *Not attached – not available on ECCC case file and not copied to Civil Party Lawyers.*

Other Materials

33. Attachments 1-8 to Case 004/2, **D359/31.1.2**, Interoffice Memorandum issued by Judge Olivier BEAUVALLET and Judge Kang Jin BAIK, International Judges of the Pre-Trial Chamber, Subject: Transfer of Case File 004/2, 12 March 2020. *Exceeds 10 pages – excerpt attached. (Authority 1)*
34. Case 004/2, **D359/27.1.2**, Email from Mr. Suy-Hong Lim, Greffier of the Trial Chamber, Subject: Information, 21 January 2020. *Not attached – ECCC case file.*
35. Case 004/2, **D359/27.1.3**, Email from Mr. Suy-Hong Lim, Greffier of the Trial Chamber, Subject: ICP request dated 4 February 2020, 10 Feb. 2020. *Not attached – ECCC case file.*
36. Case 004/2, **D359/31.1.1**, Interoffice Memorandum issued by Judge PRAK Kimsan, President of the Pre-Trial Chamber, Subject: Re-Confirmation of the Decision on Case File 004/2, 16 March 2020. *Not attached – ECCC case file.*
37. Case 004/2, **D359/31.1.2**, Interoffice Memorandum issued by Judge Olivier BEAUVALLET and Judge Kang Jin BAIK, International Judges of the Pre-Trial Chamber, Subject: Transfer of Case File 004/2, para. 3, 12 March 2020. *Not attached – ECCC case file.*
38. Email from Mr. Suy-Hong LIM, Greffier of the Trial Chamber, Subject: Concerning ICP communication dated 13 February 2020, 3 March 2020. **(Authority 2)**
39. Email from Ms. Megan HIRST, International Lead Co-Lawyer, Subject: ECCC email accounts and Case 004/02, 3 February 2020. **(Authority 3)**
40. Email from Ms. Megan HIRST, International Lead Co-Lawyer, Subject: Courtesy copy of ICP Request to Trial Chamber to Take Action to Obtain Access to Case 004/2 (Ao An) Indictment and Case File, 4 February 2020. **(Authority 4)**
41. Interoffice Memorandum issued by Judge Kang Jin BAIK and Judge Olivier BEAUVALLET, International Judges of the Pre-Trial Chamber, Subject: Notification of the Pre-Trial Chamber's Considerations in Case 004/2, 3, 29 January 2020. **(Authority 5)**

Press Releases

42. ECCC Press Release, Statement by the International Co-Prosecutor on Case 004/2, 24 December 2019, available at <https://eccc.gov.kh/sites/default/files/media/INTERNATIONAL%20AND%20NATIONAL%20OCP%27S%20STATEMENT%2024%20DEC%202019.pdf>. *Not attached – ECCC website.*
43. ECCC Press Release, National Co-Prosecutor's Press Statement on the Charged Person Ao An of Case 004/2, 24 December 2019, available at

<https://eccc.gov.kh/sites/default/files/media/INTERNATIONAL%20AND%20NATIONAL%20OCP%27S%20STATEMENT%2024%20DEC%202019.pdf>. *Not attached – ECCC website.*

INTERNATIONAL LAW

Treaties and Other Materials

44. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, preamble and paras. 10, 11, 11(a), 14, 16 December 2005, U.N.G.A. Res. 60/147. *Exceeds 10 pages – excerpt attached. (Authority 6)*
45. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14, 10 December 1984, 1465 U.N.T.S. 85. *Exceeds 10 pages – excerpt attached. (Authority 7)*
46. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, paras. 6(a), 6(e), 4-7, 16, 29 November 1985, U.N.G.A. Res. 40/34, Annex A.1. **(Authority 8)**
47. International Covenant on Civil and Political Rights, art. 2, 16 December 1966, art. 2, 999 U.N.T.S. 171. *Exceeds 10 pages – excerpt attached. (Authority 9)*
48. Rome Statute of the International Criminal Court, arts. 68, 75, 17 July 1998, 2187 U.N.T.S. 90. *Exceeds 10 pages – excerpt attached. (Authority 10)*
49. Universal Declaration of Human Rights, art. 8, 8 December 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71. *Exceeds 10 pages – excerpt attached. (Authority 11)*

Case Law

International Criminal Tribunal for the former Yugoslavia (ICTY)

50. *Prosecutor v. Momir Nikolic*, Judgment on Sentencing Appeal, Appeals Chamber, para. 96, 8 March 2006, Case No. IT-02-60/1-A. *Exceeds 10 pages – excerpt attached. (Authority 12)*
51. *Prosecutor v. Milutinovic et al.*, Decision on Interlocutory Appeal from Trial Chamber Decision Granting Nebojsa Pavkovic's Provisional Release, Appeals Chamber, para. 11, 1 November 2005, Case No. IT-05-87-AR65.1. **(Authority 13)**

International Criminal Court (ICC)

52. Decision on Victims' Participation in Proceedings Related to the Situation in the Republic of Kenya, Pre-Trial Chamber II, ICC-01/09-24, para. 5, 3 November 2010. *Exceeds 10 pages – Excerpt attached. (Authority 14)*

53. *Prosecutor v. Lubanga*, ICC-01/04-01/06 -774, Judgment on the appeal of Mr. Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled “Second Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81,” Appeals Chamber, para. 30, 14 December 2006. *Exceeds 10 pages – Excerpt attached.* (**Authority 15**)

REGIONAL AND FOREIGN DOMESTIC LAW

Treaties

54. American Convention on Human Rights, art. 25(1), 22 November 1969, 1144 U.N.T.S.123. *Exceeds 10 pages – excerpt attached.* (**Authority 16**)
55. Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, art. 27(1), 9 June 1998, OAU Doc. OAU/LEG/MIN/AFCHPR/PROT.1 rev.2 (1997). (**Authority 17**)

OTHER MATERIALS

56. Chheng NIEM, ECCC Urged to dismiss AO An’s Case, Phnom Penh Post, 22 December 2019, available at <https://www.phnompenhpost.com/national-kri-tribunal/eccc-urged-dismiss-ao-ans-case>. (**Authority 18**)
57. Chheng NIEM, Prosecutors divided in ECCC Case 004/02, Phnom Penh Post, 26 December 2019, available at <https://www.phnompenhpost.com/national-kri-tribunal/prosecutors-divided-eccc-case-00402>. (**Authority 19**)