

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

FILING DETAILS

Case No.: 004/2/07-09-2009-ECCC-OCIJ (PTC) **Party Filing:** Co-Lawyers for Civil Parties

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**SUBMISSION JOINING AND PROVIDING ADDITIONAL SUPPORT FOR
“CIVIL PARTY CO-LAWYERS’ URGENT REQUEST FOR AN
EXTENSION OF TIME AND PAGES TO APPEAL THE CIVIL PARTY
ADMISSIBILITY DECISIONS IN CASE 004/2”**

Filed by:

Co-Lawyers for Civil Parties
HONG Kimsuon
Emmanuel JACOMY
Martine JACQUIN
VEN Pov
SIN Soworn
TY Srinna

Before:

Pre-Trial Chamber
Judge PRAK Kimsan
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge BAIK Kang Jin
Judge HUOT Vuthy

Distribution to:**Co-Investigating Judges**

YOU Bunleng
Michael BOHLANDER

Co-Prosecutors

CHEA Lang
Nicholas KOUMJIAN

Co-Lawyers for Ao An

MOM Luch
Richard ROGERS
Göran SLUITER

Co-Lawyers for Civil Parties

CHET Vanly
KIM Mengky
LOR Chunty
SAM Sokong

Laure DESFORGES
Isabelle DURAND
Daniel MCLAUGHLIN
Lyma NGUYEN
Nushin SARKARATI

I. INTRODUCTION

1. By way of this submission, Civil Party Co-Lawyers join and provide additional support for the arguments put forward in the Urgent Request for an Extension of Time and Pages to Appeal the Civil Party Admissibility Decisions in Case 004/2 (“Request for an Extension”).¹ The Request for an Extension respectfully requests the Pre-Trial Chamber to grant an extension of time, pursuant to Internal Rule 39(4), to appeal the International Co-Investigating Judge’s Order on Admissibility of Civil Party Applicants (“Admissibility Order”) issued on 16 August 2018.² It also requests an increase in the page limit and permission to file in a single language for appeals to Civil Party admissibility decisions in Case 004/2.
2. In addition to the arguments put forward in the original Request for an Extension, this submission argues that an extension of time for the filing of appeals to the Admissibility Order is justified on the basis that the International Co-Investigating Judge’s Case 004/2 Closing Order (“Closing Order”),³ in which the scope of trial is set and discussed in detail, has been made available to the parties in the English language only. Without a Khmer language version of the Closing Order, Cambodian Civil Party Co-Lawyers are placed at a distinct disadvantage with respect to the information available to them to formulate their appeals to the Admissibility Order.

II. PROCEDURAL HISTORY

3. Civil Party Co-Lawyers incorporate by reference the procedural history developed in the Request for an Extension. Additionally, Co-Lawyers note that in the Closing Order, the International Co-Investigating Judge indicted AO An for genocide of the Cham and crimes against humanity.⁴ This Closing Order numbered 415 pages and was issued in the English language only, without translation into a second language available on the Case File.⁵

¹ Civil Party Co-Lawyers’ Urgent Request for an Extension of Time and Pages to Appeal the Civil Party Admissibility Decisions, Case File No. 004/2/07-09-2009-ECCC/OCIJ (PTC), [Document No. Pending], 17 August 2018.

² International Co-Investigating Judge’s Order on Admissibility of Civil Party Applicants, Case File No. 004/2/07-09-2009-ECCC/OCIJ, **D362**, 16 August 2018 [hereinafter “Admissibility Order”].

³ Closing Order (Indictment), Case File No. 004/2/07-09-2009-ECCC/OCIJ (PTC), **D360**, 16 August 2018 [hereinafter “Closing Order”].

⁴ Case 004/2 Closing Order (Indictment), *supra* note 3.

⁵ National Co-Investigating Judge’s Closing Order, Case File No. 004/2/07-09-2009-ECCC/OCIJ, **D359**, 16 August 2018.

III. APPLICABLE LAW

4. Civil Party Co-Lawyers incorporate by reference the applicable law cited in the Request for an Extension. Additionally, Co-Lawyers highlight that the Practice Direction on the Filing of Documents establishes that time limits for filings commence on the first day following the notification of the document on the Case File “in Khmer and one other official language of the ECCC.”⁶ Furthermore, Internal Rule 21 and article 12(2) of the ECCC Agreement guarantee the fairness of proceedings before the ECCC.⁷

IV. DISCUSSION

5. The International Co-Investigating Judge’s Closing Order sets out and describes in precise detail the scope of the indictment upon which determinations of Civil Party admissibility to Case 004/2 are based. The Civil Party Co-Lawyers’ ability to effectively advocate for the right of their clients to participate in Case 004/2 proceedings through the admissibility appeals process depends on their having a clear understanding of the scope of the indictment. To permit the time limit for appeals on Civil Party admissibility to run while there is only an English language version of the Closing Order available to Cambodian Civil Party Co-Lawyers threatens to place them and their clients at a tremendous disadvantage in the proceedings and violate fundamental principles of procedural fairness that guide proceedings before the ECCC. This is particularly true given that a number of Cambodian Civil Party Co-Lawyers represent their clients without an English-speaking co-counsel.
6. In order to preserve the fairness of the Civil Party admissibility appeals process and safeguard the interests of victims in the proceedings, the time limit for appeals on Case 004/2 admissibility decisions should not commence until a Khmer language version of the Closing Order is available on the Case File.

V. REQUEST



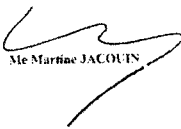

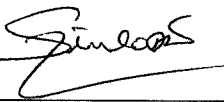
7. Wherefore, Co-Lawyers for Civil Parties respectfully join the request the Pre-Trial Chamber to:

⁶ Practice Direction on Filing of Documents before the ECCC (Rev. 8) art. 8.5, Jan. 2007.

⁷ ECCC Internal Rules (Rev. 9), Rule 21(1)(a); 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, 6 June 2003 at art. 12(2).

- a. **EXTEND** the filing deadline for appeals to Civil Party admissibility decisions in Case 004/2 to 30 days after the notification of a Khmer language translation of the Closing Order;
- b. **INCREASE** the page limit for appeals filings on Civil Party admissibility to 45 pages; and
- c. **PERMIT** Co-Lawyers for Civil Parties to submit their appeals in a single language, Khmer or English, with translations to soon follow.

Respectfully submitted,

Date	Name	Place	Signature
21 August 2018	HONG Kimsuon, Cambodian Civil Party Co-Lawyer	Phnom Penh, Cambodia	
	Emmanuel JACOMY, International Civil Party Co-Lawyer		
	Martine JAQUIN, International Civil Party Co-Lawyer		 Me Martine JACQUIN
	VEN Pov, Cambodian Civil Party Co-Lawyer		
	SIN Soworn, Cambodian Civil Party Co-Lawyer		
	TY Srinna, Cambodian Civil Party Co-Lawyer		