

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

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**CIVIL PARTY LEAD CO-LAWYERS' SUPPLEMENTAL SUBMISSION
FUNDING ISSUES RELATED TO REPARATION PROJECTS IN CAMBODIA
REQUEST FOR GUIDANCE
WITH CONFIDENTIAL ANNEXES**

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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 Civil Party Lead Co-Lawyers (“Lead Co-Lawyers”) filed the Civil Party Lead Co-Lawyers’ Closing Brief in Case 002/02 (“Closing Brief”) on 2 May 2017, in which they provided an overview of civil party participation in Case 002/02 and presented the harms suffered by civil parties in relation to each trial segment within the scope of Case 002/02.¹ On 30 May 2017, the Lead Co-Lawyers filed their Final Claim for Reparation (“Final Claim”), in which they requested 17 projects to be endorsed by the Trial Chamber as judicial reparation awards for the benefit of civil parties for harm suffered as a result of crimes tried in Case 002/02.²
2. In the Final Claim, the Lead Co-Lawyers requested the ability to file supplemental submissions on 30 November 2017 owing to changes to the fundraising deadline with respect to six projects that had not secured full funding. On 7 July 2017, the Trial Chamber granted the Lead Co-Lawyers request to file supplemental submissions on funding issues by 30 November 2017 at the latest.³
3. The Lead Co-Lawyers hereby file proof of secured funding with respect to Projects 13 and 15. The Lead Co-Lawyers withdraw Projects 14, 16, 17, and 18 from consideration as per their request in the Final Claim as full funding has not been secured.⁴
4. While the Lead Co-Lawyers acknowledge that their submissions were to be limited to funding issues relating to projects that had not yet secured full funding, the Lead Co-Lawyers respectfully request guidance from the Chamber with respect to unanticipated developments relating to six fully funded projects proposed in the Final Claim for Reparation. Owing to continued donor interest, these projects have received, or will very likely receive, additional funding to extend project activities. The Lead Co-Lawyers take the view that such extensions should be considered as

¹ Civil Party Lead Co-Lawyers’ Closing Brief in Case 002/02, **E457/6/2**, 2 May 2017.

² Civil Party Lead Co-Lawyers’ Final Claim for Reparation in Case 002/02 with Confidential Annexes, **E457/6/2/1**, 30 May 2017 (“Final Claim”). The International Lead Co-Lawyer submitted that one additional project be endorsed by the Trial Chamber.

³ Trial Chamber Memorandum, Decision on the Lead Co-Lawyers’ Request for an Extension of Time to File Supplemental Submissions Containing Proof of Secured Funding by 30 November 2017 for Six Reparation Projects, **E457/6/2/2**, 7 July 2017, paras 3 and 6.

⁴ Final Claim, **E457/6/2/1**, paras 13, 59, 73, and Request.

extensions to the reparation projects proposed pursuant to Internal Rule 23 *quinquies* (3)(b) as they provide further benefits to the consolidated group of civil parties by increasing the number of beneficiaries and/or increasing the dissemination of existing projects. This would also have the practical effect of ensuring coherence amongst similar project activities, the participation of civil parties in these activities, being informed by reparation project partners about any further developments with respect to their projects, and ensuring the consistent labelling of project activities as part of a proposed reparation project.

II. SUBMISSION

A. Project 13: Improving Health and Mental Wellbeing and Reducing the Risk of Poverty and Social Exclusion of Some Civil Parties and other Vulnerable Older People in Cambodia

5. As described in the Final Claim, HelpAge Cambodia, with the support of the Lead Co-Lawyers and the VSS, has developed “Improving health and mental wellbeing and reducing the risk of poverty and social exclusion of some civil parties and other vulnerable older people in Cambodia” as a reparation project for the benefit of civil parties.⁵
6. In addressing the Trial Chamber’s concern with respect to the project’s details and proof of consent and cooperation of third parties necessary to the project’s implementation,⁶ additional information relating to the project’s activities can be found in the UNOPS Grant Support Agreement contained in Annex A, together with letters of support from its implementing partners.⁷ The Lead Co-Lawyers note in

⁵ Final Claim, E457/6/2/1, paras 60-62 and Annex 13: Improving Health and Mental Wellbeing and Reducing Rise of Poverty and Social Exclusion of Some Civil Parties and other Vulnerable Older People in Cambodia, E457/6/2/1.1.13.

⁶ Trial Chamber Memorandum, Decision on the Lead Co-Lawyers’ Request for an Extension of Time to File Supplemental Submissions Containing Proof of Secured Funding by 30 November 2017 for Six Reparation Projects, E457/6/2/2, 7 July 2017, para 4.

⁷ See Annex A.2: Revised Reparation Project Overview; Annex A.3: Project Partner Description; Annex A.4: Letter of Support from the Health Department of Battambang Province (PHD); Annex A.5: Letter of Support from the Transcultural Psychosocial Organization Cambodia (TPO Cambodia); Annex A.6: Letters of Support and Cooperation issued by the Association of Confederations for Support of the Elderly (Older Persons Association/OPAs) in Preah Netr Preah District in Banteay Mean Chey Province, Banan District in Battambang Province, Maung Russey District in Battambang Province, Ek Phnom District in Battambang Province, and Pouk District, Siem Reap Province and Letter of Support issued by Morth Sreah Association of Elderly; A.8: LCL Supplemental Submission on Funding

particular that the updated information clarifies the time frame for implementation and reduces the project's budget.⁸

7. During the period following the filing of the Final Claim, funding for the project has been fully secured by the European Union through UNOPS and the Swiss Agency for Development and Cooperation.⁹

B. Project 15: Cambodia's Indigenous People and Pol Pot

8. As described in the Final Claim, the Cambodian-German Cultural Association, in cooperation with the Lead Co-Lawyers and the VSS, has designed and seeks to implement its project "Cambodia's Indigenous People and Pol Pot" as a judicial reparation project in Case 002/02.¹⁰
9. The Lead Co-Lawyers received further information from the project partner relating to an expansion of its original activities and consequently, increasing the project's original budget.¹¹
10. Full funding for the project has been secured from the European Union through UNOPS and the Heinrich Böll Foundation.¹² The Lead Co-Lawyers note that additional funding is being sought for further translation and dissemination of the films. However, such funding is not an essential component of the project and the project can be fully implemented in the absence of such funding.

C. Request for Guidance relating to the Extension of Activities for Fully Funded Projects

11. The Lead Co-Lawyers request guidance from the Trial Chamber as to how to proceed with respect to project developments subsequent to the filing of the Final Claim.

Verification of Secured Funding, UNOPS Grant Support Agreement (includes project budget and project details).

⁸ See Annex A.2: Revised Reparation Project Overview; Annex A.7: Revised Project Budget.

⁹ See Annex A.8: Verification of Secured Funding, UNOPS Grant Support Agreement (includes project budget and project details); Annex A.9: Verification of Secured Funding, Letter of Support from the Swiss Agency for Development and Cooperation.

¹⁰ Final Claim, E457/6/2/1, paras 60-62 and Annex 15: Cambodia's Indigenous People and Pol Pot, E457/6/2/1.1.15.

¹¹ See Annex B.2: Revised Reparation Project Overview; Annex B.4: Revised Project Budget.

¹² See Annex B.5: Verification of Secured Funding, UNOPS Grant Support Agreement (includes project budget and project details); Annex B.6: Verification of Secured Funding, Letter from Heinrich Böll Stiftung Cambodia.

Donors have expressed continued interest or have committed to providing further funding for already fully funded reparation projects, whether it be to extend existing activities for a longer period of time and/or to extend activities to additional locations. Donors have also expressed interest or have committed to funding additional activities closely related to the activities described in the original project design filed in the Final Claim, including the development of new substantive project content. For example, as part of their continuing effort to support Case 002/02 proposed reparation projects, the European Union through UNOPS has made more funds available to extend their existing project grants.¹³ Each project extension will involve the participation of civil parties as beneficiaries.

12. Specifically, the Lead Co-Lawyers seek clarification as to whether the Trial Chamber would consider such continuation of activities as extensions of the proposed reparation project under Internal Rule 23 *quinquies* (3)(b),¹⁴ or whether they are considered to be NGO projects independent of ECCC reparation scheme.¹⁵ One of the consequences of the characterization is that reparation projects under Internal Rule 23 *quinquies* (3)(b), read together with Internal Rule 12 *bis* (3), envisage the involvement of the Lead Co-Lawyers and the VSS in the design and implementation of such projects.¹⁶ The Lead Co-Lawyers therefore request guidance as to their obligations with respect to the projects listed below.

13. There are also consequences for project partners. The terms of the letters of engagement signed by reparation project partners commit partners to cooperate, maintain effective communication, and share information, and specifically to cooperate with the Lead Co-Lawyers and the VSS in the design, development, and

¹³ See Annex C.1: UNOPS Letter of Intent, Summary of Reparation Projects.

¹⁴ The Lead Co-Lawyers recall the Trial Chamber's assessment of Projects 5 and 6 in Case 002/01, however, as the project developments and commitments at issue here took place subsequent to the filing of the Final Claim for Reparation in Case 002/02, the situation is different. See Case 002/01 Trial Judgement, **E313**, paras 1131, 1132, 1154 and 1155.

¹⁵ They could also be considered as Non-Judicial Measures pursuant to Internal Rule 12 *bis* (4) to be under the exclusive control of the VSS.

¹⁶ For example, the Lead Co-Lawyers have previously been involved with respect to the development of project content so that it is "developed in consideration of the right of the accused to be presumed innocent, such that the subject matter is derived from the experiences suffered by the civil parties and is in line with the crimes for which the accused are being tried in Case 002/02." See Civil Party Lead Co-Lawyers Submission of Prioritized Reparation Projects, **E352/2/1**, 15 July 2016, para. 5.

- implementation of proposed reparation projects.¹⁷ The letters of engagement also require partners to identify project activities as being part of an ECCC proposed reparation project.¹⁸
14. Such extensions would also affect the Chamber's ability to recognize that a specific project appropriately gives effect to the award sought by the Lead Co-Lawyers as more civil parties are now able to benefit from these proposed reparation projects. The Lead Co-Lawyers remain at the Chamber's disposal to file further information in relation to additional activities, timeframes, funding, and new substantive content.
15. The Lead Co-Lawyers have been informed by project partners and the VSS of donor interest in extending the activities of six fully funded projects: "App-Learning on Khmer Rouge History" (Project 1); "Khmer Rouge History Education through Teacher and University Lecturer Training Workshops" (Project 2); "The Turtle Project: Innovative Cross medial Project, Promoting historical awareness and civil courage in Cambodia" (Project 3); "Phka Sla Kraom Angkar" (Project 5); "Voices from Ethnic Minorities: Promoting Public Awareness about the Treatment of Ethnic Vietnamese and Cham Living in Cambodia during the Khmer Rouge Regime" (Project 6); and "Memory Sketches of Kraing Ta Chan" (Project 9). Each of these projects will continue to involve civil parties in their activities and be able to reach more civil parties as a result of their extension.
16. In relation to "App-Learning on Khmer Rouge History" (Project 1), the Lead Co-Lawyers have been informed that additional funding will be provided by the

¹⁷ The standard text for all signatories states, "All signatories acknowledge the harm suffered by Civil Parties and seek to promote reparation projects that address their harm. All signatories to this letter of engagement will endeavor to cooperate, maintain effective communication, and share information in the interest of achieving the shared goal of realizing effective and meaningful judicial reparations for Civil Parties." Project Partner(s) agree to "cooperate with the CPLCLs and VSS in the design, development and implementation of this reparation project. Project partner(s) may also engage in fundraising efforts directly with potential donors and will inform the CPLCLs and VSS should they secure funding for the Project. The project partner(s) may directly receive project funds and implement the project according to the proposal submitted to the CPLCLs and VSS. The project partner(s) shall refer to the Project as a reparation project in Case 002/02 according to the current status of the proceedings at the ECCC in all of its public presentations and written communications shall include the following language: 'This is a proposed ECCC judicial reparation project that has been developed for the benefit of Civil Parties in Case 002/02.'"

¹⁸ *Ibid.*

- European Union through UNOPS¹⁹ for the Bophana Center to develop new substantive chapters covering additional topics.²⁰ The additional funding will also be used to increase access to the App as 300 teachers from 150 high schools and universities will be trained in 15 regions.²¹ Finally, a new section of the App, “An Act of Memory,” will video record 60 intergenerational dialogues between Khmer Rouge survivors and their children.²²
17. The European Union through UNOPS also envisions providing additional funding to the Documentation Center of Cambodia to extend the activities of “Khmer Rouge History Education through Teacher and University Lecturer Training Workshops” (Project 2).²³ The nature and content of the continuing activities is still being finalized.
18. The Cambodian-German Cultural Association expects to receive additional funding from the European Union through UNOPS to extend activities relating to “The Turtle Project: Innovative Cross Media Project, Promoting historical awareness and civil courage in Cambodia” (Project 3).²⁴ The additional funds will allow the Project to revisit provinces in order to conduct further performances of the play and intergenerational dialogues between civil parties and students, and to conduct a survey that tests students knowledge of the DK with questions that have been approved by the Ministry of Education, Youth and Sport. Additional funds are further expected to hold events with civil parties and youth at Tuol Sleng.²⁵
19. Kdei Karuna anticipates to receive funds to extend its exhibitions, dialogues with civil parties, and oral history collection as part of “Phka Sla Kraom Angkar” (Project 5).²⁶ The funds will allow a continuation of its 2017 activities through 2018 to reach

¹⁹ See Annex C.1: UNOPS Letter of Intent, Summary of Reparation Projects.

²⁰ See Annex C.2: Letter from the Bophana Center and Proposed Extension. Bophana has indicated that they may also receive additional funding from the Rei Foundation. For the development of previous chapters, a member of the Section attended meetings of the Scientific Committee responsible for the development of App content.

²¹ See Annex C.2: Letter from the Bophana Center and Proposed Extension.

²² See Annex C.2: Letter from the Bophana Center and Proposed Extension.

²³ See Annex C.1: UNOPS Letter of Intent, Summary of Reparation Projects.

²⁴ See Annex C.1: UNOPS Letter of Intent, Summary of Reparation Projects.

²⁵ See Annex C.3: Letter from the Cambodian-German Cultural Association relating to the Turtle Project and Activity Description.

²⁶ See Annex C.4: Letter from Kdei Karuna relating to Pka Sla Project.

- more beneficiaries in the provinces. In addition and as related activities, Kdei Karuna will be able to conduct three mobile exhibitions and intergenerational dialogues between civil parties and communities in Banteay Meanchey, Udar Meanchey and Pailin. Twelve oral history collections will be compiled from the children of civil parties and survivors of the DK in Kampong Speu, Tbuong Khmum, and Svay Rieng.²⁷
20. With respect to “Voices from Ethnic Minorities: Promoting Public Awareness about the Treatment of Ethnic Vietnamese and Cham Living in Cambodia during the Khmer Rouge Regime” (Project 6), Kdei Karuna has received additional funding from the German Federal Ministry for Economic Cooperation and Development through the Civil Peace Service (CPS) of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH to continue its activities for 2018.²⁸ The funds will further enable the project to conduct additional related activities. Two mobile exhibitions in Svay Rieng and Kandal Province will be held and two intergenerational dialogues will be held between youth and civil parties.²⁹
21. Lastly, the Swiss Embassy in Bangkok has provided funding to “Memory Sketches of Kraing Ta Chan” (Project 9) for Youth for Peace and the Peace Institute of Cambodia to continue the project’s activities for an additional six months to reach more beneficiaries and to conduct several related activities.³⁰ These activities include printing a history book of Kraing Ta Chan and exhibition booklets, the construction of walking trails around the crime site, conducting public awareness and exhibition events in Takeo province in which civil parties will be invited to participate and share

²⁷ See Annex C.4: Letter from Kdei Karuna relating to Pka Sla Project.

²⁸ See Annex C.5: Letter from Kdei Karuna relating to the Voices from Ethnic Minorities Project; Annex C.6: Letter from the German Federal Ministry for Economic Cooperation and Development through the Civil Peace Service (CPS) of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in relation to “Voices from Ethnic Minorities: Promoting Public Awareness about the Treatment of Ethnic Vietnamese and Cham Living in Cambodia during the Khmer Rouge Regime.”

²⁹ See Annex C.5: Letter from Kdei Karuna relating to the Voices from Ethnic Minorities Project.

³⁰ See Annex C.7: Letter from Youth for Peace relating to Memory Sketches of Kraing Ta Chan Project and Description of Additional Activities; Annex C.8: Agreement between The Embassy of Switzerland in Bangkok and Youth for Peace Concerning the project Memory Sketch of Kraing Ta Chan.

their experiences, providing training on Kraing Ta Chan history, and the holding of a public exhibition in Phnom Penh.³¹

22. Considering the continuance of existing activities and the inclusion of closely related activities that increase the benefits conferred upon the consolidated group of civil parties to address the harm suffered as a result of crimes within the scope of Case 002/02, the Lead Co-Lawyers urge that these project extensions be included by the Trial Chamber in their analysis of the appropriateness of a given award. The Lead Co-Lawyers would be in a position to file updated or more specific information in relation to these projects should the Chamber so request.

III. REQUEST

23. The Lead Co-Lawyers recall their request in the Closing Brief and Final Claim in which they seek the Trial Chamber to acknowledge the harm suffered by the civil parties as a result of the commission of the crimes for which the Accused are convicted.³²

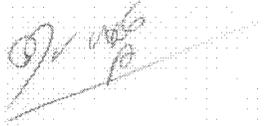
WHEREFORE, the Civil Party Lead Co-Lawyers respectfully request that the Trial Chamber:

- (1) **ACKNOWLEDGE** that Projects 13 and 15 address the harm suffered by the civil parties as a result of the commission of the crimes for which the Accused are convicted;
- (2) **ENDORSE** Projects 13 and 15 as appropriately giving effect to the award sought by the Lead Co-Lawyers;
- (3) **CONSIDER** Projects 14, 16, 17 and 18 as withdrawn;
- (4) **PROVIDE GUIDANCE** with respect to additional funding and activities for Projects 1, 2, 3, 5, 6 and 9.

³¹ See Annex C.7: Letter from Youth for Peace relating to Memory Sketches of Kraing Ta Chan Project and Description of Additional Activities.

³² Civil Party Lead Co-Lawyers' Closing Brief in Case 002/02, E457/6/2, 2 May 2017, Dispositive; Civil Party Lead Co-Lawyers' Final Claim for Reparation in Case 002/02, E457/6/2/1, 30 May 2017, para. 80.

Respectfully submitted,

Date	Name	Place	Signature
30 November 2017	PICH ANG National Lead Co- Lawyer	Phnom Penh	
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