

**BEFORE THE SUPREME COURT CHAMBER
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

Filing details

File No.: 002/19-09-2007-ECCC/TC

Party Filing: Civil Party Lead Co-Lawyers

Before: Supreme Court Chamber

Original language: English

Date of document: 21 November 2012



CLASSIFICATION

Classification of document suggested by the filing party: PUBLIC

Classification by the Co-Investigating Judges or the Chamber: សាធារណៈ/Public

Classification Status:

Review of interim Classification:

Records Officer Name:

Signature:

**CIVIL PARTY LEAD CO-LAWYERS SUPPORT TO THE CO-PROSECUTORS'
IMMEDIATE APPEAL OF DECISION CONCERNING THE SCOPE OF TRIAL IN
CASE 002/01**

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Before:

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Judge A. KLONOWIECKA-MILART
Judge SOM Sereyvuth
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I. Introduction and Procedural History

1. On 7 November 2012, the Co-Prosecutor submitted an immediate appeal¹ to the Supreme Court Chamber (“Chamber”) against the Trial Chamber’s memorandum entitled *Notification of Decision on Co-Prosecutors’ Request to Include Additional Crime Sites within the Scope of Trial in Case 002/01 (E163) and deadline for submission of applicable law portion of Closing Briefs* (“Impugned Decision”).²
2. The Co-Prosecutors’ request that the Supreme Court Chamber hold that the extension of the scope of the trial in Case 002/01 as proposed by the Co-Prosecutors in E163 is in the interest of justice and, accordingly, amend the Impugned Decision so as to include Security Centre S-21 (together with the related execution site at Choeung Ek) and the executions in Kampong Tralach Leu District (District 12) within the scope of the trial in Case 002/01. Further, they request that the Trial Chamber implement this extension in the exercise of its trial management discretion.
4. On 17 August 2012, during the Trial Management Meeting, the President of the Trial Chamber invited the Lead Co-Lawyers to express their position on the Co-Prosecutors’ request to include additional crimes sites within the scope of the trial in Case 002/01. In particular, they were requested to answer the following question: *Do the envisaged benefits offered by this proposed extension outweigh the risk created by a prolongation of trial proceedings, particularly in view of the interests of victims of the Khmer Rouge era crimes in reaching an early verdict?*³
The Lead Co-Lawyers insisted that, even though the Civil Parties “want to see a

¹ E163/5/1/1 Co-Prosecutor’s appeal of decision concerning the scope of Trial in Case 002/01 with Annex I and Confidential Annex II, 7 November 2012.

² E163/5 Notification of Decision on Co-Prosecutors’ Request to include Additional Crime Sites within the Scope of Trial; in Case 002/01 (E 163) and deadline for submission of applicable law portion of Closing Briefs, 8 October 2012.

³ E1/114.1 Transcript of Hearing Trial Management Meeting, closed session, 17 August 2012, p. 94, lines 17-20.

verdict provided within a reasonable time limit,”⁴ “in no case can the civil parties believe that the expeditiousness of the trial should carry more weight than its meaning, including its symbolic meaning.”⁵

5. The Lead Co-Lawyers and the Civil Party Lawyers hereby support the Co-Prosecutors’ immediate appeal.

II – Support to the Co-Prosecutors’ Immediate Appeal of Decision Concerning the Scope of Trial in Case 002/01

6. The Lead Co-Lawyers have previously stated their position regarding the Severance Order.⁶ However, facing the present and real possibility that the trial in Case 002/01 will be the last trial at the ECCC, the Lead Co-Lawyers support the Co-Prosecutors’ appeal on the extension of the trial, even if limited to only two additional crime sites.
7. At this point, the Lead Co-Lawyers and Civil Party Lawyers would welcome any extension of the scope of the trial, as it would assist in achieving a more accurate historical record and extend the reach of justice, both of which will foster national reconciliation, as noted by the Co-Prosecutors in their appeal.⁷ As stated by the Lead Co-Lawyers during the Trial Management Meeting, “no decision is acceptable, however expeditious, if it’s not based on the significant debate that has a sufficiently broad scope.”⁸
8. The Lead Co-Lawyers and the Civil Party Lawyers believe that, given the Co-Prosecutors’ role in proceedings, it falls within their competence and expertise to

⁴ E1/114.1 Transcript of Hearing Trial Management Meeting, closed session, 17 August 2012, p. 102, lines 16-17.

⁵ E1/114.1 Transcript of Hearing Trial Management Meeting, closed session, 17 August 2012, p. 102, lines 19-21.

⁶ E124/4 Lead Co-Lawyer’s Notice of Request for Reconsideration of the Terms of “Severance Order Pursuant to Internal Rule 89ter, 6 October 2011 and E124/8 Lead Co-Lawyers and Civil Party Lawyers’ Request for Reconsideration of the Terms of Severance Order E124, 18 October 2011.

⁷ E163/5/1/1 Co-Prosecutor’s appeal of decision concerning the scope of Trial in Case 002/01 with Annex I and Confidential Annex II, 7 November 2012, para.40, p. 14.

⁸ E1/114.1 Transcript of Hearing Trial Management Meeting, closed session, 17 August 2012, p. 104, lines 8-10.

- propose and justify such an extension. The Lead Co-Lawyers are aware that such an extension will entail a prolongation of the trial; however, we agree with the Co-Prosecutors that such prolongation would not pose a significant lengthening of proceedings and is reasonable in this case.⁹
9. The Lead Co-Lawyers also agree with the Co-Prosecutors' submission that the Trial Chamber failed to render "a proper decision in form and content."¹⁰
10. Therefore, the Lead Co-Lawyers and Civil Party Lawyers support the Co-Prosecutors' immediate appeal of the decision concerning the scope of trial in Case 002/01.

III. Relief Sought


11. For the aforementioned reasons, the Lead Co-Lawyers and the Civil Party Lawyers hereby request that the Chamber:
- Take into account the Civil Parties' position in support of the Co-Prosecutors' immediate appeal;
 - Admit the Co-Prosecutors' immediate appeal based on the arguments set forth by this office;
 - Hold that an extension of the scope of trial in Case 002/01 as proposed by the Co-Prosecutors is in the interest of justice;
 - Amend the Impugned Decision so as to include Security Centre S-21 (together with the related execution site at Choeung Ek) and the executions in Kampong Tralach Leu District (District 12) within the scope of the trial in Case 002/01, as requested by the Co-Prosecutors in document E163; and

⁹ E163/5/1/1 Co-Prosecutor's appeal of decision concerning the scope of Trial in Case 002/01 with Annex I and Confidential Annex II, 7 November 2012., para 49-86, pages 17-29..

¹⁰ E163/5/1/1 Co-Prosecutor's appeal of decision concerning the scope of Trial in Case 002/01 with Annex I and Confidential Annex II, 7 November 2012., para 42-48, pages 15-17.

- Direct the Trial Chamber to implement these extensions in the exercise of its trial management discretion.

Respectfully Submitted,

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