

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

FILING DETAILS

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**CIVIL PARTY LEAD CO-LAWYERS' NOTICE OF APPEAL
AGAINST DECISION E62/3/10/4**

Filed by:

Civil Party Lead Co-Lawyers
 PICH Ang
 Elisabeth SIMONNEAU-FORT

Civil Party Lawyers
 KIM Mengkhy
 MOCH Sovannary
 Philippe CANONNE
 Annie DELAHAIE
 Laure DESFORGES
 Ferdinand DJAMMEN NZEPA
 Nicole DUMAS
 Isabelle DURAND
 Françoise GAUTRY
 Martine JACQUIN
 Daniel LOSQ
 Christine MARTINEAU
 Barnabé NEKUIE
 Elisabeth RABESANDRATANA
 Fabienne TRUSSES NAPROUS
 HONG Kim Suon
 LOR Chunthy
 SIN Soworn
 SAM Sokong
 TY Srinna
 Emmanuel ALTIT
 Pascal AUBOIN
 Olivier BAHOUGNE

Before:

The Trial Chamber
 Judge NIL Nonn, president
 Judge Silvia CARTWRIGHT
 Judge YA Sakhan
 Judge Jean-Marc LAVERGNE
 Judge THOU Mony

Distribution to:

The Supreme Court Chamber
 Judge KONG Srim, President
 Judge Motoo NOGUCHI
 Judge SOM Sereyvuth
 Judge Agnieszka KLONOWIECKA-MILART
 Judge SIN Rith
 Judge Chandra Nihal Jayasinghe
 Judge YA Narin

The Office of the Co-Prosecutors

CHEA Leang
 Andrew CAYLEY

The Accused

IENG Sary
 IENG Thirith
 NUON Chea

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Civil Party Lead Co-Lawyers' Notice of Appeal against Decision E62/3/10/4

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Patrick BAUDOIN
Evelyne BOILEAU-BRANDOMIR
Marie GUIRAUD
Emmanuel JACOMY
Madhev MOHAN
Lyma Thuy NGUYEN
Julien RIVET
Nushin SARKARATI
Philippine SUTZ

Lawyers for the Defence:

ANG Udom
Michael G.KARNAVAS
PHAT Pouv Seang
Diana ELLIS
SON Arun
Michiel PESTMAN
Victor KOPPE

Civil Party Co-Lawyers

Silke STUDZINSKY
VEN Pov

I. INTRODUCTION

1. Pursuant to Internal Rules 104, 105 and 106, the Civil Party Lead Co-Lawyers hereby give notice that they will appeal against Decision E62/3/10/4,¹ dated 29 July 2011, by which the Trial Chamber denied the request for the expert medical reports prepared by Professor John Campbell to be distributed to all Civil Party Lawyers.
2. Pursuant to Internal Rules 105(3), 105(2) (a) and (c), 106 and 107(4), the Civil Party Lead Co-Lawyers submit the present notice of appeal, indicating that they will appeal against the judgment.
3. The Civil Party Lead Co-Lawyers submit that, pursuant to Internal Rule 104(1), the Supreme Court Chamber has jurisdiction to decide upon the matters they will raise in their appeal, *inter alia*, insofar as it is their submission that the Trial Chamber has committed:

“ a.) error[s] on a question of law invalidating the [...] decision (...)”

II. GROUNDS OF APPEAL

4. Pursuant to Internal Rule 105(3), the Civil Party Co-Lead Lawyers set forth *infra*, in respect of each ground of appeal, the alleged error on a question of law invalidating the decision.
 - a) **Error of law concerning the interpretation of the organisation of the legal representation of Civil Parties:**
5. The Trial Chamber’s interpretation of the organisation of Civil Party representation is at variance with Internal Rules 12 *ter*, 21(1) and 23(3).
 - b) **Error of law concerning the relative right of all parties to the proceedings to access the Case File:**
6. By denying the Civil Party Lawyers access to the expert medical reports, the Trial Chamber failed to apply the provisions of Internal Rules 86, 46(1), 32, and 22(3).
Error of law concerning the right to file pleadings and applications before the Chambers:
7. Pursuant to Article 8.4 of Practice Direction on Filing Documents before the ECCC (ECCC/01/2007/Revision 6), the Co-Lawyers were entitled to a time limit within

¹ Decision on Lead Co-Lawyer’s “Urgent Request for the Trial Chamber to amend Memorandum E62/3/10” (E62/3/10/1) filed by the Civil Party Lead Co-Lawyers on 29 July 2011 E62/3/10/4_

which to respond to the applications filed by the IENG Thirith Defence² and the NUON Chea Defence,³ but the Chamber failed to honour that time limit.

c) Error of law concerning infringement of the Civil Parties' rights:

8. The refusal to distribute the expert medical reports to the Civil Party Lawyers infringes the rights granted to Civil Parties under international law, *inter alia*, the ones set out in the Basic Principles adopted and proclaimed by the United Nations General Assembly⁴ and in Internal Rule 21(1) (a) and (c).

II. CONCLUSIONS

9. The Civil Party Co-Lawyers will set out the reasons upon which their appeal is based within 60 days of filing this notice of appeal.

10. The Civil Party Co-Lawyer request the Trial Chamber:

- to find their appeal admissible;
- to authorise the distribution of additional documents;
- to reverse the Trial Chamber decision in respect of the impugned dispositions identified *supra*.

² IENG Thirith Defence Response to the Civil Party Co-Lead Lawyers “Urgent request For the Trial Chamber to Amend Memorandum E62/3/10 (formerly E106)”, 22 July 2011, E62/3/10/2.

³ Notice of Joinder in IENG Thirith’s Defence Response to the Civil Parties Co-Lead Lawyers “Urgent Request for the Trial Chamber to Amend Memorandum E62/3/10 (formerly E106)”, 28 July 2011, E62/3/10/3.

⁴ See United Nations General Assembly Resolution A/RES/60/147 adopted on 21 March 2006: “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”.

WITHOUT PREJUDICE

Date	Name	Place	Signature
25 August 2011	ANG Pich National Lead Co-Lawyer	Phnom Penh	
25 August 2011	Elisabeth SIMONNEAU FORT International Lead Co-Lawyer	Phnom Penh	
25 August 2011	MOCH Sovannary Civil Party Lawyer	Phnom Penh	
25 August 2011	KIM Mengkhy Civil Party Lawyer	Phnom Penh	
25 August 2011	Françoise GAUTRY Civil Party Lawyer	Phnom Penh	