



ព្រះរាជាណាចក្រកម្ពុជា **F8/1**
ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

អង្គជំនុំជម្រះតុលាការកំពូល
Supreme Court Chamber
Chambre de la Cour suprême

សំណុំរឿងលេខ: ០០១/១៨ កក្កដា ២០០៧-អ.វ.ត.ក/អ.ជ.ត.ក
Case File/Dossier N°. 001/18-07-2007-ECCC/SC

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Before: Judge KONG Srim, President
Judge Motoo NOGUCHI
Judge SOM Sereyvuth
Judge Agnieszka KLONOWIECKA-MILART
Judge SIN Rith
Judge Chandra Nihal JAYASINGHE
Judge YA Narin

Date: 30 September 2010

Classification: PUBLIC

**DECISION ON CHARACTERISATION OF GROUP 1 - CIVIL PARTY CO-LAWYERS'
IMMEDIATE APPEAL OF CIVIL PARTY STATUS DETERMINATIONS IN THE TRIAL
JUDGMENT**

Lawyers for Civil Parties Group 1
TY Srinna
Karim KHAN
Alain WERNER
Brienne McGONIGLE

Lawyers for Civil Parties Group 2
KONG Pisey
HONG Kimsuon
YUNG Phanit
Silke STUDZINSKY

Co-Prosecutors
CHEA Leang
Andrew CAYLEY

Lawyers for Civil Parties Group 3
KIM Mengkhy
MOCH Sovannary
Martine JACQUIN
Annie DELAHAIE
Philippe CANONNE
Elizabeth RABESANDRATANA
Fabienne TRUSSES-NAPROUS
Christine MARTINEAU

Accused
KAING Guek Eav alias 'DUCH'

Lawyers for the Accused
KAR Savuth
KANG Ritheary



THE SUPREME COURT CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) is seised of the “Group 1 - Civil Parties’ Co-Lawyers’ Immediate Appeal of Civil Party Status Determinations from the Final Judgement” (“Immediate Appeal”).¹

I. PROCEDURAL HISTORY

1. On 24 August 2010, the Co-Lawyers for Civil Parties Group 1 filed the Immediate Appeal² pursuant to Internal Rule 104(4)(e) (Rev. 3) on behalf of nine individuals (“nine individuals”). In accordance with Internal Rule 106(3)-(4) (Rev. 3), on 31 August 2010 the Greffiers of the Supreme Court Chamber instructed the Co-Lawyers to re-file the Immediate Appeal with these individuals’ authorisations attached. The Co-Lawyers re-submitted the Immediate Appeal to the Greffiers on 14 September 2010. This was filed with the Court Management Section of the ECCC on 16 September 2010 and notified on 21 September 2010.

II. REASONING

A. Applicable Law

2. The relevant parts of the Internal Rules (Rev. 3) are as follows:

The following decisions of the Trial Chamber are subject to immediate appeal:

...

e) decisions declaring the application of a civil party inadmissible under Rule 23(4).³

B. Characterisation of the Immediate Appeal

3. The Supreme Court Chamber recalls that the concept of an immediate appeal under Internal Rule 104(4) (Revs. 3 and 6) applies to decisions made by the Trial Chamber during the trial proceedings, whereas the concept of an “appeal against the judgment” applies to decisions contained in the judgment of the Trial Chamber.
4. The Supreme Court Chamber notes that the Trial Chamber did not expressly pronounce on the civil party applications of these nine individuals in the “Disposition” of its Judgment (“Trial Judgment”).⁴ However, in the reasoning section of the Trial Judgment, the Trial Chamber

¹ 16 September 2010, F8 (“Immediate Appeal”).

² E188/10.

³ Internal Rule 104(4)(e) (Rev. 3).

⁴ 26 July 2010, E188 (as corrected), paras. 676-684 (“Trial Judgment”).

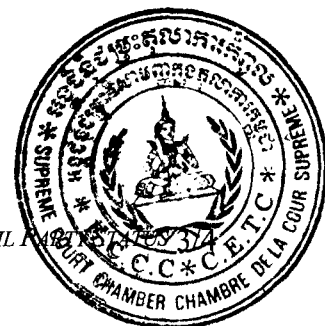


rejected the nine civil party applications on the merits.⁵ The Supreme Court Chamber therefore considers that the concept of “immediate appeal” does not apply to an appeal against the Trial Chamber’s decisions to reject the nine civil party applications. Instead, these decisions are appealable under the procedural regime applicable to appeals against the Trial Judgment.

5. In the interests of justice, and given the novel and complex procedural framework of civil party participation before the ECCC, the Supreme Court Chamber decides to characterise and treat the Immediate Appeal as a notice of appeal and appeal brief filed under Internal Rules 105(3), 106(2), 106(4)-(5), and 107(4) (Rev. 6). All law applicable to a notice of appeal and appeal brief before the Supreme Court Chamber applies henceforth. This Decision is without prejudice to the Supreme Court Chamber’s determination of the merits of the nine civil party applications.
6. Accordingly, in order to give full effect to appeals by the nine individuals against the Trial Judgment, the Supreme Court Chamber invites their Co-Lawyers, if they so wish, to file a supplementary notice of appeal and a supplementary appeal brief on any other civil interests of the nine individuals.
7. In accordance with Internal Rules 21(4) and 39(2) (Rev. 6) and Article 8.2 of the Practice Direction on Filing of Documents before the ECCC,⁶ and taking into account the circumstances of the case, the Supreme Court Chamber decides that any supplementary notice of appeal and supplementary appeal brief must be filed within 60 days of the date of filing this Decision. The Supreme Court Chamber considers that this time limit is sufficient for the nine individuals to fully exercise their rights of appeal under the Internal Rules. The total combined page limit for any supplementary notice of appeal and supplementary appeal brief shall not exceed 30 pages in English or French and 60 pages in Khmer.

⁵ Trial Judgment, paras. 636, 647-649.

⁶ ECCC/01/2007/Rev.4.



III. DISPOSITION

FOR THE FOREGOING REASONS, THE SUPREME COURT CHAMBER DECIDES:

1. To characterise the Immediate Appeal as a notice of appeal and appeal brief against the Trial Judgment;
2. The Co-Lawyers for the nine individuals may file a supplementary notice of appeal and a supplementary appeal brief within 60 days of the date of filing this Decision. The total combined page limit for the supplementary notice of appeal and supplementary appeal brief shall not exceed 30 pages in English or French and 60 pages in Khmer.

Phnom Penh, 30 September 2010
President of the Supreme Court Chamber



Kong Srim