



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

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

អង្គបុរេជំនុំជម្រះ
Pre-Trial Chamber
Chambre Preliminaire

D304/6/4

In the name of the Cambodian people and the United Nations and pursuant to the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea

Case File N° 004/1/07-09-2009-ECCC/OCIJ (PTC54)

THE PRE-TRIAL CHAMBER

Before: Judge PRAK Kimsan, President
Judge Olivier BEAUVALLET
Judge NEY Thol
Judge Kang Jin BAIK
Judge HUOT Vuthy

Date: 8 June 2018

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PUBLIC

DECISION ON IM CHAEM'S REQUEST FOR RECLASSIFICATION OF HER RESPONSE TO THE INTERNATIONAL CO-PROSECUTOR'S FINAL SUBMISSION

Co-Prosecutors

CHEA Leang
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THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) is seised of “IM Chaem’s Request for Reclassification of Her Response to the International Co-Prosecutor’s Final Submission”¹ and its Annex A² filed by IM Chaem on 12 March 2018 (“Reclassification Request”).

I. INTRODUCTION

1. IM Chaem’s Co-Lawyers request the Pre-Trial Chamber to reclassify as public the “IM Chaem’s Response to the International Co-Prosecutor’s Rule 66 Final Submission against Her”,³ subject to redactions suggested in her Annex A. IM Chaem also requests the Pre-Trial Chamber to reclassify her Reclassification Request as public.

II. PROCEDURAL HISTORY

2. On 27 October 2016, the International Co-Prosecutor filed the “International Co-Prosecutor’s Rule 66 Final Submission against IM Chaem”, requesting her indictment.⁴

3. On 31 October 2016, IM Chaem’s Co-Lawyers sent a letter to the Co-Investigating Judges suggesting that any request to file a public redacted version of the Final Submission be denied until the issuance of the Closing Order.⁵ On 8 November 2016, the International Co-Prosecutor filed a response to the above-mentioned letter, requesting the Co-Investigating Judges to dismiss the request therein contained.⁶

¹ Case No. 004/1/07-09-2009-ECCC-OCIJ (“Case 004/1”), IM Chaem’s Request for Reclassification of her Response to the International Co-Prosecutor’s Final Submission, 12 March 2018, D304/6/1 (“Reclassification Request”).

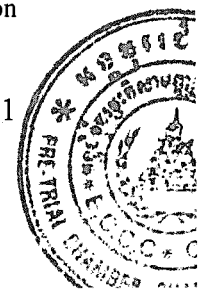
² IM Chaem’s Request for Reclassification of her Response to the International Co-Prosecutor’s Final Submission, Annex A, 12 March 2018, D304/6/1.2.

³ Case 004/1, IM Chaem’s Response to the International Co-Prosecutor’s Rule 66 Final Submission against Her, 28 November 2016, D304/6 (“Response to the Final Submission”).

⁴ Case 004/1, International Co-Prosecutor’s Rule 66 Final Submission Against IM Chaem, 27 October 2016, D304/2 (“Final Submission”).

⁵ Case 004/1, Letter entitled “Public redacted Version of the Co-Prosecutors’ Final Submissions”, 31 October 2016, D304/3.

⁶ Case 004/1, International Co-Prosecutor’s Response to IM Chaem’s Letter to the Co-Investigating Judges on the Filing of a Public Redacted Version of the Co-Prosecutor’s Final Submission, 8 November 2016, D304/3/1.



4. On 28 November 2016, the “IM Chaem’s Response to the International Co-Prosecutor’s Rule 66 Final Submission against Her”⁷ was filed by the Defence. On 10 July 2017, the Co-Investigating Judges issued a confidential Closing Order (Reasons) dismissing all charges against IM Chaem, and a redacted public version.⁸

5. On 12 March 2018, IM Chaem filed the Reclassification Request. The International Co-Prosecutor filed his response on 23 March 2018,⁹ to which IM Chaem replied on 2 April 2018.¹⁰

6. On 11 May 2018, the Pre-Trial Chamber issued an order requesting the Witnesses/Experts Support Unit to provide information related to persons under protective measures pursuant to Internal Rule 29(3).¹¹ On 17 May 2018, the Witnesses/Experts Support Unit provided a memo and two annexes.¹² On 21 May 2018, the Pre-Trial Chamber issued an order requesting information related to persons under protective measures in Case 004/1,¹³ to which the Co-Investigating Judges responded on 22 May 2018.¹⁴

III. ADMISSIBILITY

7. The Reclassification Request is filed pursuant to Article 9.1 of the Practice Direction on the Classification and Management of Case-Related Information (“Practice Direction on Classification”)¹⁵ and Articles 3.12 and 3.14 of the Practice Direction on Filing of Documents

⁷ Response to the Final Submission.

⁸ Case 004/1, Closing Order (Reasons), 10 July 2017, D308/3.

⁹ Case 004/1, International Co-Prosecutor’s Response to IM Chaem’s Request for Reclassification, 23 March 2018, D304/6/2 (“International Co-Prosecutor’s Response to the Reclassification Request”).

¹⁰ Case 004/1, IM Chaem’s Reply to the International Co-Prosecutor’s Response to her Request to Reclassify her Response to the Final Submission, 2 April 2018, D304/6/3 (“IM Chaem’s Reply to the International Co-Prosecutor’s Response to the Reclassification Request”).

¹¹ Case 004/1, Order Related to the Appeal of Decision on Redaction of the Closing Order in Case 004/1, 11 May 2018, D309/2/1/5.

¹² Case 004/1, Witnesses/Experts Support Unit, Risk Assessment, 16 May 2018, D309/2/1/5/1 and Annexes D309/2/1/5/1.1 and D309/2/1/5/1.2.

¹³ Case 004/1, Second Order Related to the Appeal of Decision on Redaction of the Closing Order in Case 004/1, 21 May 2018, D309/2/1/6.

¹⁴ Case 004/1, Response to PTC Order of 21 May 2018, 22 May 2018, D309/2/1/6/1 and Annexes I and II.

¹⁵ Practice Direction on the Classification and Management of Case-Related Information, ECCC/004/2009/Rev.2 (“Practice Direction on Classification”), Article 9.1.



before the ECCC (“Practice Direction on Filing”).¹⁶ The Pre-Trial Chamber thus considers that the Reclassification Request is admissible.

IV. MERITS

A. Submissions

8. IM Chaem’s Co-Lawyers aver that, although the confidentiality of the judicial investigation continues to apply at the conclusion of the investigation,¹⁷ the reclassification of their Response to the Final Submission is warranted by the interests of justice, in order to ensure the transparency of the proceedings and provide the public with a narrative counterbalancing the “inaccurate and misleading” information available online.¹⁸ IM Chaem’s Co-Lawyers further stress that the information available in the public domain contains limited reference to the Defence case concerning various issues related to the Final Submission.¹⁹ Consequently, they request the issuance of a public version of their Response to the Final Submission, subject to redactions suggested in Annex A.²⁰ Finally, IM Chaem’s Co-Lawyers announce that they will seek the reclassification of Case 004/1 filings “in the near future”.²¹

9. The International Co-Prosecutor supports IM Chaem’s Co-Lawyers’ request but considers that the redactions they propose are too broad, and requests the reclassification as public of the transcripts of the appeal hearings, “related filings” and the full Closing Order (Reasons).²² He responds that the transparency of the proceedings requires the publicity of all parties’ submissions, as well as the Co-Investigating Judges’ and the Pre-Trial Chamber’s rationale, instead of the selective assertions IM Chaem’s Co-Lawyers want to disclose in the public domain. He further notes that the Reclassification Request, combined with their position that the Co-Investigating Judges’ conclusions as to IM Chaem’s alleged criminal

¹⁶ Practice Direction on Filing of Documents before the ECCC ECCC/01/2007/Rev.8 (“Practice Direction on Filing”), Articles 3.12 and 3.14.

¹⁷ IM Chaem’s Reclassification Request, para. 14.

¹⁸ IM Chaem’s Reclassification Request, paras 18-19.

¹⁹ IM Chaem’s Reclassification Request, para. 20.

²⁰ IM Chaem’s Reclassification Request, para. 17.

²¹ IM Chaem’s Reclassification Request, para. 17.

²² International Co-Prosecutor’s Response to the Reclassification Request, para. 23.



behaviour should be redacted due to their lack of jurisdiction, would result in a “skewed and one-sided form of transparency”.²³ Further, the International Co-Prosecutor notes a contradiction in IM Chaem’s Co-Lawyers’ assertions concerning the confidentiality of the investigation and avers that the rationale they put forth applies to all filings, which therefore should be reclassified, including the Closing Order (Reasons).²⁴ Finally, the International Co-Prosecutor suggests modifications to some of the proposed redactions,²⁵ but agrees with IM Chaem’s Co-Lawyers that her name should be left unredacted, as well as references to his Final Submission and other filings, provided that they are reclassified as public.²⁶

10. In their reply,²⁷ IM Chaem’s Co-Lawyers contend that most of the International Co-Prosecutor’s arguments are irrelevant to the subject matter, as they do not address the requested reclassification or suggested redactions. They recall that the International Co-Prosecutor is allowed to request the reclassification of any document he deems necessary if he is concerned that the public may be provided with a partial and one-sided view of the allegations.²⁸ In addition, IM Chaem’s Co-Lawyers contend that the International Co-Prosecutor uses his Response to the Reclassification Request to reformulate a request for reclassification of the hearing transcripts, which is inadmissible considering that the Pre-Trial Chamber already issued a decision on the matter, which is not subject to any appeal. Likewise, IM Chaem’s Co-Lawyers note that the International Co-Prosecutor provides additional arguments in support of a pending appeal regarding the redaction of the Closing Order (Reasons).²⁹ Further, IM Chaem’s Co-Lawyers aver that the International Co-Prosecutor expresses criticism of their suggested redactions but fails to suggest specific modifications.³⁰

²³ International Co-Prosecutor’s Response to the Reclassification Request, para. 4-5.

²⁴ International Co-Prosecutor’s Response to the Reclassification Request, paras 8-9, 11. The Pre-Trial Chamber is currently seised with the “International Co-Prosecutor’s Appeal on Decision on Redaction or, alternatively, Request for Reclassification on the Closing Order” (D309/2/1/2, PTC49).

²⁵ International Co-Prosecutor’s Response to the Reclassification Request, paras 17-19.

²⁶ International Co-Prosecutor’s Response to the Reclassification Request, para. 20.

²⁷ Reply to the International Co-Prosecutor’s Response to the Reclassification Request.

²⁸ Reply to the International Co-Prosecutor’s Response to the Reclassification Request, paras 3-6.

²⁹ Reply to the International Co-Prosecutor’s Response to the Reclassification Request, para. 7.

³⁰ Reply to the International Co-Prosecutor’s Response to the Reclassification Request, para. 10.



B. Discussion

11. The Pre-Trial Chamber will first address (1) the Request for Reclassification of the Defence Response to the Final Submission, and then consider (2) the International Co-Prosecutor's cross-request for further reclassifications.

1. Request for Reclassification of the Defence Response to the Final Submission

12. Article 9.1 of the Practice Direction on Classification reads: "Documents or information can be re-classified (and placed in a section of the case file with a different level of confidentiality) only pursuant to an order of the Co-Investigating Judges or a Chamber, as appropriate."³¹

13. Furthermore, Article 3.12 of the Practice Direction on Filing provides: "Until the issuance of a Closing Order and the determination of any appeal against the Closing Order, the Co-Investigating Judges and the Pre-Trial Chamber, as appropriate, shall consider whether the proposed classification is appropriate and, if not, determine what is the appropriate classification."³²

a. Decision on the Reclassification of IM Chaem's Response to the Final Submission

14. In the case at hand, the Pre-Trial Chamber notes the agreement between IM Chaem's Co-Lawyers and the International Co-Prosecutor to reclassify the Defence Response to the Final Submission as public.³³

15. The Pre-Trial Chamber recalls that, pursuant to Article 5.1.h of the Practice Direction on Classification, filings to the Pre-Trial Chamber are in principle confidential until the Chamber has decided on the matter.³⁴ However, the Pre-Trial Chamber may reclassify those

³¹ Practice Direction on Classification, Article 9.1.

³² Practice Direction on Filing, Article 3.12.

³³ IM Chaem's Reclassification Request, para. 16; International Co-Prosecutor's Response to the Reclassification Request, para. 1; IM Chaem's Reply to the International Co-Prosecutor's Response to the Reclassification Request, para. 1.

³⁴ Practice Direction on Classification, Article 5.1.h.



documents as public, with redactions, if necessary, pursuant to Articles 4.f, 9.2 and 9.3 of the same Practice Direction.³⁵

16. The Pre-Trial Chamber finds it appropriate, in light of the current state of the proceedings in Case 004/1, to order the reclassification of the Defence Response to the Final Submission³⁶ from confidential to public. This reclassification is also appropriate for the present request,³⁷ the International Co-Prosecutor's Response to the Reclassification Request³⁸ and IM Chaem's Reply to the International Co-Prosecutor's Response to the Reclassification Request.³⁹

b. Scope of the Redaction of the Defence Response to the Final Submission

17. While the parties agree on the reclassification of the Defence Response to the Final Submission, they disagree on the scope of the redaction. The Defence suggests some redactions in Annex A to the Request.⁴⁰ The International Co-Prosecutor has also proposed his own view on the redactions.⁴¹

18. The Practice Direction on Classification provides in its Article 1.2: "The principle underlying this Practice Direction is the need to balance the confidentiality of judicial investigations and of other parts of judicial proceedings which are not open to the public with the need to ensure transparency of public proceedings and to meet the purposes of education and legacy."⁴²

19. After having considered Annex A and the arguments of the parties, the Pre-Trial Chamber will now turn to address each of the four categories of redaction suggested by the Defence.

³⁵ Practice Direction on Classification, Articles 4.f, 9.2 and 9.3.

³⁶ Response to the Final Submission.

³⁷ IM Chaem's Reclassification Request.

³⁸ International Co-Prosecutor's Response to the Reclassification Request.

³⁹ IM Chaem's Reply to the International Co-Prosecutor's Response to the Reclassification Request.

⁴⁰ IM Chaem's Reclassification Request, para. 17.

⁴¹ International Co-Prosecutor's Response to the Reclassification Request, para. 23.

⁴² See also Case 002/19-09-2007-ECCC/OCIJ, Decision on Appeal of Co-Lawyers for Civil Parties Against Order on Civil Parties' Request for Investigative Actions Concerning all Properties Owned by the Charged Persons, 4 August 2010, D193/5/5, para. 1.



20. The Pre-Trial Chamber finds it appropriate to leave IM Chaem's name unredacted in the Defence Response to the Final Submission.

21. The Pre-Trial Chamber also finds it appropriate to leave unredacted every reference to or quote from any of IM Chaem's statements filed in Case 004/1, as they are already in the public domain.

22. In addition, the Pre-Trial Chamber finds it unnecessary to redact the names of deceased Khmer Rouge officials mentioned in the Defence Response to the Final Submission.

23. Coming to the redaction of all evidence gathered from witnesses or civil party applicants, the Pre-Trial Chamber finds that it is of utmost importance to ensure the security of the victims and witnesses. With regard to the above-mentioned communications from the Witnesses/Experts Support Unit and the Office of the Co-Investigating Judges, the Pre-Trial Chamber considers it appropriate to only redact the names and addresses of the people who are under protective measures pursuant to Internal Rule 29(3), or whose requests for such measures are still pending.

2. International Co-Prosecutor's Cross-Request for Further Reclassifications

24. In his response to the above-reviewed Reclassification Request, the International Co-Prosecutor counterdemands the reclassification of the transcripts of the appeal hearings held on 11 and 12 December 2017 before the Pre-Trial Chamber, related filings and the full Closing Order (Reasons).⁴³

25. The Practice Direction on Filing provides in Article 3.12 that, "[d]uring the judicial investigation, a filing party may propose that a document be classified as 'Public', 'Confidential', or 'Strictly Confidential', in accordance with the provisions of the Practice Direction on the Classification".⁴⁴ First, the Pre-Trial Chamber finds that a document can be reclassified pursuant to a Chamber's decision. Such a proceeding can be initiated by a filing party, but this is not required. In other words, the Court, in the meaning of the Practice

⁴³ International Co-Prosecutor's Response to the Reclassification Request, paras 2, 23.

⁴⁴ Practice Direction on Filing, Article 3.12.



Direction on Classification, can act *proprio motu* and enjoys significant discretion on that matter.

26. Therefore, the Pre-Trial Chamber will consider whether it is appropriate, according to the Practice Direction on Classification, to also reconsider the current status of a few related documents produced at the time of the appeal proceedings against the Case 004/1 Closing Order.

a. Transcripts of the Hearings Held on 11 and 12 December 2017 and Related Documents

27. The fact that this prosecutorial request was formulated as a counterdemand does not prevent the Pre-Trial Chamber from exercising its discretion as to the classification of records it has generated and classified on its own. The Pre-Trial Chamber consequently grants the request with regard to reclassification of records produced by Pre-Trial Chamber. This relates to the Scheduling Order⁴⁵ and the prior suggestions of the parties.⁴⁶

28. With regard to the reclassification of the hearings held *in camera*, the Pre-Trial Chamber finds that the fact that the hearings took place in closed session does not automatically result in the transcripts remaining off the public record. Court management and document classification are governed by different legal instruments and have different purposes. Classification is governed by the relevant Practice Direction,⁴⁷ while hearings are governed by the Internal Rules.⁴⁸

29. Hearings before the Pre-Trial Chamber are held *in camera* pursuant to Internal Rule 77(5). The Pre-Trial Chamber stresses that: “[w]ritten records, transcripts, and audio /

⁴⁵ Case 004/1, Scheduling Order for the Pre-Trial Chamber’s Hearing on Appeal Against Closing Order, 14 November 2017, D308/3/1/19.

⁴⁶ Case 004/1, Letter from IM Chaem’s Co-Lawyers entitled “Proposed details of oral hearings in Case 004/1”, 31 October 2017, D308/3/1/14; Case 004/1, International Co-Prosecutor’s Submission on the Pre-Trial Chamber Hearing regarding the Appeal of Closing Order (Reasons), 31 October 2017, D308/3/1/15; Case 004/1, Letter from IM Chaem’s Co-Lawyers entitled “Response to the International Co-Prosecutor’s Submission on the Pre-Trial Chamber Hearing regarding the Appeal of Closing Order (Reasons) (D308/3/1/15)”, 6 November 2017, D308/3/1/16; Case 004/1, Communication from Case 004/1 Civil Party Lawyers entitled “Pre-Trial Hearing Regarding the Appeal of Closing Order (Reasons)”, 6 November 2017, D308/3/1/17.

⁴⁷ Practice Direction on Classification.

⁴⁸ Internal Rule 77(5)-(6).



visual recordings of hearings held *in camera*” are “in principle confidential” unless a different classification is ordered by a Court decision.⁴⁹ Therefore, no decision on the classification of written transcripts of hearings held *in camera* is final since such classification may be modified by a court decision. This reasoning also applies to the classification of the audio/video records of those hearings.⁵⁰

b. Filings from the Co-Lawyers for the Former Civil Party Applicants

30. The reclassification also concerns an application initially brought by the National Co-Lawyer for the Former Civil Party Applicants who had no standing in the proceedings.⁵¹ This was briefed by the parties. The Pre-Trial Chamber denied the request but invited the Co-Lawyers for the Former Civil Party Applicants to file a limited submission, which they did,⁵² and to which IM Chaem’s Co-Lawyers responded.⁵³ Those documents are also to be reclassified.

c. Scope of Redactions

31. For the same reasons as set out above,⁵⁴ the Pre-Trial Chamber considers it appropriate to redact from those reclassified documents the names and addresses of every person who was granted or requested protective measures pursuant to Internal Rule 29(3).

⁴⁹ Practice Direction on Classification, Article 5.1.

⁵⁰ Case 004/1, Audio and video recordings of the hearings held by the Pre-Trial Chamber on 11 and 12 December 2017, D308/3/1/19/1.1R and D308/3/1/19/2.1R.

⁵¹ Case 004/1, National Civil Party Co-Lawyer’s Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor’s Appeal of Closing Order (Reason) in English with Khmer to Follow, 18 August 2017, D308/3/1/4.

⁵² Case 004/1, IM Chaem’s Response to National Civil Party Co-Lawyer’s Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor’s Appeal of Closing Order (Reason) in English with Khmer to Follow, 21 August 2017, D308/3/1/5; Case 004/1, National Civil Party Co-Lawyer’s Reply to IM Chaem’s Response (D308/3/1/5) to the Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor’s Appeal of Closing Order (Reason) in English with Khmer to Follow, 23 August 2017, D308/3/1/6; Case 004/1, International Co-Prosecutor’s Reply to IM Chaem’s Response to Civil Party Co-Lawyer’s Request, 23 August 2017, D308/3/1/7; Case 004/1, Decision on the National Civil Party Co-Lawyer’s Request regarding the Filing of Response to the Appeal Against the Closing Order and Invitation to File Submissions, 29 August 2017, D308/3/1/8; Case 004/1, Civil Party Co-Lawyers’ Submission on ECCC Position within Cambodian Legal System, 8 September 2017, D308/3/1/9.

⁵³ Case 004/1, IM Chaem’s Response to the CPCLS’ Submission on the Position of the ECCC within the Cambodian Legal System (D308/3/1/9), 8 September 2017, D308/3/1/18.

⁵⁴ See *supra* para. 23.



d. Other Related Filings

32. With regard to the reclassification of the “related filings”,⁵⁵ the Pre-Trial Chamber first notes that the International Co-Prosecutor has not yet requested the reclassification of his own Final Submission, despite announcing he would do so in his Response to the Reclassification Request, filed on 23 March 2018.⁵⁶ At this stage of the proceedings, considering the International Co-Prosecutor’s intention and in the interest of the good administration of justice, the Pre-Trial Chamber finds it appropriate to order the reclassification of the International Co-Prosecutor’s Final Submission,⁵⁷ as part of the overall review of classification triggered by the present request.

33. Coming to “other related filings,” the Pre-Trial Chamber considers that, beyond what has been reviewed in the paragraphs above, it is not sufficiently clear what the International Co-Prosecutor considers as “related filings”. This request is consequently denied.

e. Closing Order (Reasons)

34. With regard to the redacted version of the Closing Order (Reasons), the Pre-Trial Chamber is already seised through the “International Co-Prosecutor’s Appeal of Decision on Closing Order (Reasons) Redaction or, Alternatively, Request for Reclassification of Closing Order (Reasons)”.⁵⁸ As this request is already being addressed in different proceedings, the reiterated request is consequently moot.

FOR THESE REASONS, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:

- **ORDERS** the Defence to submit within seven days a public version of the following filings:
 - o The Defence Response to the Final Submission;⁵⁹

⁵⁵ International Co-Prosecutor’s Response to the Reclassification Request, para. 23.

⁵⁶ International Co-Prosecutor’s Response to the Reclassification Request, para. 2.

⁵⁷ Final Submission.

⁵⁸ Case 004/1, International Co-Prosecutor’s Appeal of Decision on Closing Order (Reasons) Redaction or, Alternatively, Request for Reclassification of Closing Order (Reasons), 9 August 2017, D309/2/1/2.

⁵⁹ Response to the Final Submission.



- IM Chaem's Request for Reclassification of her Response to the International Co-Prosecutor's Final Submission;⁶⁰
 - IM Chaem's Reply to the International Co-Prosecutor's Response to her Reclassification Request;⁶¹
 - IM Chaem's Response to National Civil Party Co-Lawyer's Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor's Appeal;⁶²
 - IM Chaem's Response to the CPCLs' Submission on the Position of the ECCC Within the Cambodian Legal System;⁶³
 - IM Chaem's Proposed Details of oral Hearings in Case 004/1;⁶⁴
 - Response to the International Co-Prosecutor's Submission on the Pre-Trial Chamber Hearing Regarding the Appeal of Closing Order (Reasons);⁶⁵
- **INSTRUCTS** the Defence to redact in these submissions only the names and addresses of every person under protective measures pursuant to Internal Rule 29(3), or whose request for such measures is still pending;
- **ORDERS** the International Co-Prosecutor to submit within seven days a public version of the following filings:
- The International Co-Prosecutor's Rule 66 Final Submission Against IM Chaem;⁶⁶
 - The International Co-Prosecutor's Response to IM Chaem's Reclassification Request;⁶⁷

⁶⁰ IM Chaem's Reclassification Request.

⁶¹ IM Chaem's Reply to the International Co-Prosecutor's Response to the Reclassification Request.

⁶² Case 004/1, IM Chaem's Response to National Civil Party Co-Lawyer's Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor's Appeal of Closing Order (Reason) in English with Khmer to Follow, 21 August 2017, D308/3/1/5.

⁶³ Case 004/1, IM Chaem's Response to the CPCLs' Submission on the Position of the ECCC within the Cambodian Legal System (D308/3/1/9), 10 November 2017, D308/3/1/18.

⁶⁴ Case 004/1, Letter from IM Chaem's Co-Lawyers entitled "Proposed details of oral hearings in Case 004/1", 31 October 2017, D308/3/1/14.

⁶⁵ Case 004/1, Response to the International Co-Prosecutor's Submission on the Pre-Trial Chamber Hearing regarding the Appeal of Closing Order (Reasons) (D308/3/1/15), 5 November 2017, D308/3/1/16.

⁶⁶ Final Submission.



- The International Co-Prosecutor's Reply to IM Chaem's Response to Civil Party Co-Lawyer's Request;⁶⁸
 - The International Co-Prosecutor's Submission on the Pre-Trial Chamber Hearing Regarding the Appeal of Closing Order (Reasons);⁶⁹
- **INSTRUCTS** the International Co-Prosecutor to redact in these submissions only the names and addresses of every person under protective measures pursuant to Internal Rule 29(3), or whose request for such measures is still pending;
- **DECIDES** to reclassify as public, subject to redactions:
- The Scheduling Order;⁷⁰
 - Written Transcripts of the Hearings held on 11 and 12 December 2017;⁷¹
 - Audio/Video Record of the Hearings held on 11 and 12 December 2017;⁷²
 - The National Civil Party Co-Lawyer's Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor's Appeal of Closing Order (Reasons);⁷³
 - The National Civil Party Co-Lawyer's Reply to IM Chaem's Response;⁷⁴
 - The Decision on the National Civil Party Co-Lawyer's Request regarding the Filing of Response to the Appeal Against the Closing Order and Invitation to File Submissions;⁷⁵

⁶⁷ International Co-Prosecutor's Response to the Reclassification Request.

⁶⁸ Case 004/1, International Co-Prosecutor's Reply to IM Chaem's Response to Civil Party Co-Lawyer's Request, 23 August 2017, D308/3/1/7.

⁶⁹ Case 004/1, International Co-Prosecutor's Submission on the Pre-Trial Chamber Hearing Regarding the Appeal of Closing Order (Reasons), 31 October 2017, D308/3/1/15.

⁷⁰ Case 004/1, Scheduling Order for the Pre-Trial Chamber's Hearing on Appeal Against Closing Order, 14 November 2017, D308/3/1/19.

⁷¹ Case 004/1, Transcript of Appeal Hearings (closed session), 11 December 2017, D308/3/1/19/1.2; Case 004/1, Transcript of Appeal Hearings (closed session), 12 December 2017, D308/3/1/19/2.1.

⁷² Case 004/1, Audio and video recordings of the hearings held by the Pre-Trial Chamber on 11 and 12 December 2017, D308/3/1/19/1.1R and D308/3/1/19/2.1R.

⁷³ Case 004/1, National Civil Party Co-Lawyer's Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor's Appeal of Closing Order (Reasons) in English with Khmer to Follow, 15 August 2017, D308/3/1/4.

⁷⁴ Case 004/1, National Civil Party Co-Lawyer's Reply to IM Chaem's Response (D308/3/1/5) to the Request for an Extension of Time and for Leave to File a Response to the International Co-Prosecutor's Appeal of Closing Order (Reasons) in English with Khmer to Follow, 23 August 2017, D308/3/1/6.

⁷⁵ Case 004/1, Decision on the National Civil Party Co-Lawyer's Request regarding the Filing of Response to



- The Civil Party Co-Lawyers' Submission on the Position of the ECCC Within the Cambodian Legal System;⁷⁶
 - The Communication from Case 004/1 Civil Party Lawyers;⁷⁷
- **DECLARES** moot the request to order the issuance of an unredacted version of the Closing Order (Reasons) in Case 004/1;
 - **DENIES** the remainder of the request.

In accordance with Internal Rule 77(13), the present decision is not subject to appeal.

Phnom Penh, 8 June 2018

President

Pre-Trial Chamber



PRAK Kimsan

Olivier BEAUVALLET

NEY Thol

Kang Jin BAIK

HUOT Vuthy

the Appeal Against the Closing Order and Invitation to File Submissions, 29 August 2017, D308/3/1/8.

⁷⁶ Case 004/1, Civil Party Co-Lawyers' Submission on the Position of the ECCC within the Cambodian Legal System, 8 September 2017, D308/3/1/9.

⁷⁷ Case 004/1, Communication from Case 004/1 Civil Party Lawyers entitled "Pre-Trial Hearing Regarding the Appeal of Closing Order (Reasons)", 6 November 2017, D308/3/1/17.