



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

D314/2

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° Case File N° 004/1/07-09-2009-ECCC/OCIJ (PTC57)

THE PRE-TRIAL CHAMBER

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

Date: 28 June 2018

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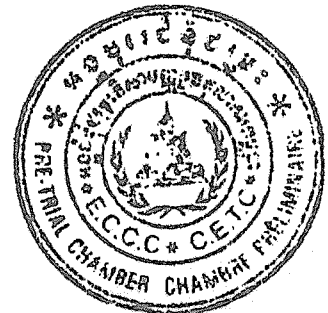
DECISION ON THE INTERNATIONAL CO-PROSECUTOR'S REQUEST FOR RECLASSIFICATION OF SUBMISSIONS ON APPEAL AGAINST THE CLOSING ORDER (REASONS)

Co-Prosecutors

CHEA Leang
Nicholas KOUMJIAN

Co-Lawyers for IM Chaem

BIT Seanglim
Wayne JORDASH



THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) is seised of the “International Co-Prosecutor’s Request for Reclassification of Submissions on Appeal Against the Closing Order (Reasons)”¹ filed on 25 June 2018 (“Reclassification Request”).

I. INTRODUCTION

1. The International Co-Prosecutor requests the Pre-Trial Chamber to reclassify as public the “International Co-Prosecutor’s Appeal of Closing Order (Reasons)”² and “International Co-Prosecutor’s Reply Regarding Appeal of Closing Order (Reasons)”³ subject to the same redactions as already set down by the Pre-Trial Chamber.

II. PROCEDURAL HISTORY AND SUMMARY OF SUBMISSIONS

2. On 25 June 2018, the Pre-Trial Chamber was seised of the Reclassification Request.⁴ The International Co-Prosecutor seeks reclassification as public of his Closing Order (reasons) Appeal and Closing Order (reasons) Reply, “in the interests of justice and transparency” and being both the content of the Co-Prosecutor’s appellate submissions and the documents underlying these submissions known to the public.⁵ The Co-Prosecutor further submits that IM Chaem’s response to the Co Prosecutor’s Closing Order (Reasons) Appeal should also be reclassified as public.⁶

¹ Case No. 004/1/07-09-2009-ECCC-OCIJ (“Case 004/1”), International Co-Prosecutor’s Request for Reclassification of Submissions on Appeal Against the Closing Order (Reasons), 22 June 2018, D314 (“Reclassification Request”).

² Case 004/1, International Co-Prosecutor’s Appeal of Closing Order (Reasons), 9 August 2017, D308/3/1/1 (“Closing Order (Reasons) Appeal”).

³ Case 004/1, International Co-Prosecutor’s Reply Regarding Appeal of Closing Order (Reasons), 16 October 2017, D308/3/1/13 (“Closing Order (Reasons) Reply”).

⁴ Reclassification Request.

⁵ Reclassification Request, para. 3.

⁶ Reclassification Request, para. 4. *See also*, Case 004/1, IM Chaem’s Response to the international Co Prosecutor’s Closing Order (Reasons) Appeal, 22 September 2017, D308/3/1/11



3. By a letter submitted on 26 June 2018, the Co-Lawyers do not oppose the International Co-Prosecutor's Request for Reclassification of Submissions on Appeal against the Closing Order (Reasons).⁷

III. MERITS

4. Noting Article 3.14 of the ECCC's Practice Direction on Filing of Documents⁸ and Article 9.1 of the Practice Direction on Classification and Management of Case-Related Information;⁹

5. Considering the Decision on the International Co-Prosecutor's Appeal on Decision on Redaction or, Alternatively, Request for Reclassification of the Closing Order (Reasons),¹⁰ issued on 8 June 2018;

6. Considering the Decision on IM Chaem's Request for Reclassification of her Response to the International Co-Prosecutor's Final Submission,¹¹ issued on the same day;

7. Recalling that the principle underlying the classification "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";¹²

⁷ Case 004/1, Letter entitled "Response to International Co-Prosecutor's Request for Reclassification of Submissions on Appeal against the Closing Order (Reasons)", 26 June 2018, D314/1.

⁸ Practice Direction on Filing of Documents before the ECCC ECCC/01/2007/Rev.8, Article 3.14.

⁹ Practice Direction on the Classification and Management of Case-Related Information, ECCC/004/2009/Rev.2, Article 9.1 ("Practice Direction on Classification").

¹⁰ Case 004/1 (PTC49), Decision on the International Co-Prosecutor's Appeal on Decision on Redaction or, Alternatively, Request for Reclassification of the Closing Order (Reasons), 8 June 2018, D309/2/1/7.

¹¹ Case 004/1 (PTC54), Decision on IM Chaem's Request for Reclassification of her Response to the International Co-Prosecutor's Final Submission, 8 June 2018, D304/6/4.

¹² Practice Direction on Classification, Article 1(2). See also Case 002 (PTC57), 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; Case 004/1 (PTC49), Decision on the International Co-Prosecutor's Appeal on Decision on Redaction or, Alternatively, Request for Reclassification of the Closing Order (Reasons), 8 June 2018, D309/2/1/7, para. 27; Case 004/1 (PTC54), Decision on IM Chaem's Request for Reclassification of her Response to the International Co-Prosecutor's Final Submission, 8 June 2018, D304/6/4, para. 18.



8. Recalling the need to ensure the witness protection and the relevant list of protected persons;¹³

THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:

- **ORDERS** the International Co-Prosecutor to file, within five days from the notification of the present decision, a public version of his Closing Order (reasons) Appeal (D308/3/1/1) and Closing Order (reasons) Reply (D308/3/1/13);
- **ORDERS** the Co-Lawyers to file, within five days from the notification of the present decision, a public version of the IM Chaem's Response to the international Co-Prosecutor's Closing Order (Reasons) Appeal (D308/3/1/11);
- **INSTRUCTS** the International Co-Prosecutor and the Co-Lawyers to redact the names and addresses of individuals covered by protective measures pursuant to Internal Rule 29(3), or whose request for such measures is still pending.

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

Phnom Penh, 28 June 2018

President

Pre-Trial Chamber



PRAK Kimsan Olivier BEAUVALLET NEY Thol Kang Jin BAIK HUOT Vuthy

¹³ See WESU Memorandum and Annex D309/2/1/5/1.2 and OCIJ Memorandum and Annex D309/2/1/6/1.2.