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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

អង្គបុរេជំនុំជម្រះ
Pre-Trial Chamber
Chambre Preliminaire

D266/24 & D267/32

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° 003/07-09-2009-ECCC/OCIJ (PTC35)

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

Date: 3 November 2020

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ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):	03 / 11 / 2020
ម៉ោង (Time/Heure) :	13:43
មន្ត្រីទទួលបន្ទុកសំណុំរឿង / Case File Officer/L'agent chargé du dossier:	SANN RADA

PUBLIC

DECISION ON MEAS MUTH'S REQUEST FOR CLARIFICATION OF THE PRE-TRIAL CHAMBER CONSIDERATIONS ON APPEALS AGAINST CLOSING ORDERS IN CASE 004/2

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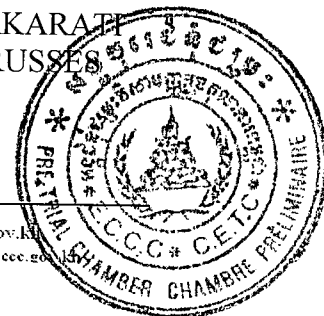
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THE PRE-TRIAL CHAMBER of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) is seised of “MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2” (“Request”)¹ dated 26 March 2020.

I. PROCEDURAL HISTORY

1. On 28 November 2018, the International Co-Investigating Judge issued his “Closing Order”, indicting MEAS Muth (“Indictment”),² while the National Co-Investigating Judge issued his “Order Dismissing the Case Against MEAS Muth” (“Dismissal Order”)³ (collectively, “Closing Orders”). The Closing Orders were respectively filed in English and Khmer only, with translations to follow.
2. On 5 April 2019, the National Co-Prosecutor filed her appeal against the Indictment⁴ in Khmer. On 8 April 2019, the Co-Lawyers for MEAS Muth and the International Co-Prosecutor respectively filed appeals against the Indictment⁵ and the Dismissal Order⁶ in English.
3. On 19 December 2019, the Pre-Trial Chamber issued its “Considerations on the Appeals against the Closing Orders” (“Considerations”) in Case 004/2.⁷
4. On 12 March 2020, the International Judges of the Pre-Trial Chamber disseminated to the parties, copying the Pre-Trial Chamber, the Greffier of the Trial Chamber and the Acting Director and Deputy Director of the Office of Administration, an interoffice memorandum of the International Judges along with the

¹ Case 003, MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2, 26 March 2020, D266/19 and D267/24 (“Request (D266/19 and D267/24)”).

² Case 003, Closing Order, 28 November 2018, D267.

³ Case 003, Order Dismissing the Case against MEAS Muth, 28 November 2018, D266.

⁴ Case 003, National Co-Prosecutor’s Appeal against the International Co-Investigating Judge’s Closing Order in Case 003, 5 April 2019, D267/3 (“National Co-Prosecutor’s Appeal against the Indictment (D267/3)”).

⁵ Case 003, MEAS Muth’s Appeal against the International Co-Investigating Judge’s Indictment, 8 April 2019, D267/4 (“MEAS Muth’s Appeal against the Indictment (D267/4)”).

⁶ Case 003, International Co-Prosecutor’s Appeal of the Order Dismissing the Case against MEAS Muth (D266), 8 April 2019, D266/2 (“International Co-Prosecutor’s Appeal against the Dismissal Order (D266/2)”).



appended Annexes related to the events within the Chamber since the issuance of the Considerations in Case 004/2, clarifying that the Pre-Trial Chamber has taken all the required administrative actions to transfer the Closing Order (Indictment) and the Case File 004/2 to the Trial Chamber.⁸

5. On 16 March 2020, the President of the Pre-Trial Chamber issued an interoffice memorandum asserting that only the unanimously decided portion of the Considerations shall have applicable effect.⁹

6. On 26 March 2020, the Co-Lawyers for MEAS Muth (“Co-Lawyers”) filed the Request, pleading the Pre-Trial Chamber to (i) find the Request admissible and (ii) provide the requested clarification concerning the Chamber’s Considerations.¹⁰ In addition, they asked the Chamber to hold a hearing to allow the Parties to present their views.¹¹

7. On 13 April 2020, the International Co-Prosecutor filed the “International Co-Prosecutor’s Response to MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2” requesting the Pre-Trial Chamber to dismiss the Request as inadmissible.¹²

8. On 20 April 2020, the Co-Lawyers filed “MEAS Muth’s Reply to International Co-Prosecutor’s Response to MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2”.¹³

⁷ Case No. 004/2/07-09-2009-ECCC/OCIJ (“Case 004/2”) (PTC60), Considerations on Appeals against Closing Orders, 19 December 2019, D359/24 and D360/33, (“Case 004/2 Considerations (D359/24 and D360/33)”).

⁸ Case 004/2, Interoffice Memorandum of the International Judges Kang Jin BAIK and Olivier BEAUVALLET, 12 March 2020, D359/36 and D360/45.

⁹ Case 004/2, Interoffice Memorandum issued by Judge PRAK Kimsan, President of the Pre-Trial Chamber, 16 March 2020, D359/37 and D360/46.

¹⁰ Request (D266/19 and D267/24).

¹¹ Request (D266/19 and D267/24), para. 48.

¹² Case 003, International Co-Prosecutor’s Response to MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2, 13 April 2020, D266/20 and D267/25 (“Response (D266/20 and D267/25)”).

¹³ Case 003, MEAS Muth’s Reply to International Co-Prosecutor’s Response to MEAS Muth’s Request for Clarification of the Pre-Trial Chamber’s Considerations on Appeals against Closing Orders in Case 004/2, 20 April 2020, D266/21 and D267/26 (“Reply (D266/21 and D267/26)”).



9. On 10 August 2020, the Supreme Court Chamber issued its “Decision on the International Co-Prosecutor’s Immediate Appeal of the Trial Chamber’s Effective Termination of Case 004/2”, dismissing the Immediate Appeal, which was filed on 4 May 2020,¹⁴ on its merits and terminating Case 004/2.¹⁵

II. SUBMISSIONS

10. The Co-Lawyers firstly submit that the Request is admissible pursuant to Internal Rule 21 and the Pre-Trial Chamber’s inherent jurisdiction and authority as the “final jurisdiction over the pre-trial stage,” “judicial duty to pronounce,” and power to determine “issues of general significance for the ECCC’s jurisprudence and legacy”.¹⁶

11. The Co-Lawyers request for the Pre-Trial Chamber’s clarification with respect to legal issues arising from the Chamber’s Considerations in Case 004/2.¹⁷ More specifically, they seek the Chamber’s clarification on the legal basis upon which the Judges of the Pre-Trial Chamber separately reviewed the merits of, and gave preference to, the Co-Investigating Judges’ Closing Orders after unanimously declaring that the Co-Investigating Judges individually and collectively acted illegally in issuing separate Closing Orders, which consequently, are null and void and not subject to review.¹⁸

12. In this regard, the Co-Lawyers submit twelve sets of legal issues as the following: (1) what was the legal basis for the application of Internal Rule 72, which operates to resolve disputes between the Co-Investigating Judges, to determine that the issuance of separate Closing Orders was illegal;¹⁹ (2) how the Pre-Trial Chamber reconciles its finding on the issuance of the Closing Orders as illegal and its review of the Closing Orders on their merits;²⁰ (3) whether the Pre-Trial Chamber considered referring to Internal Rule 76(7) to determine the consequences of finding the illegal

¹⁴ Case 004/2, International Co-Prosecutor’s Immediate Appeal of the Trial Chamber’s Effective Termination of Case 004/2, 4 May 2020, E004/2/1.

¹⁵ Case 004/2, Decision on International Co-Prosecutor’s Immediate Appeal of the Trial Chamber’s Effective Termination of Case 004/2, 10 August 2020, E004/2/1/1/2.

¹⁶ Request (D266/19 and D267/24), paras 1-10.

¹⁷ Request (D266/19 and D267/24), paras 15-48.

¹⁸ Request (D266/19 and D267/24), para. 15.

¹⁹ Request (D266/19 and D267/24), para. 17.

²⁰ Request (D266/19 and D267/24), para. 19.



issuance of the Closing Orders;²¹ (4) whether the Pre-Trial Chamber failed to apply the applicable law and exercise its power of review as a second instance investigative chamber by (i) not remitting the Closing Orders to the Co-Investigating Judges with instructions or (ii) not reviewing the Case File itself;²² (5) how the Pre-Trial Chamber Judges reconcile their failure to work together in the assessment of the Case File and reaching a decision with their finding that ascribes bad faith to the Co-Investigating Judges;²³ (6) whether the standards of justice, fairness and due process were jeopardised when the Pre-Trial Chamber exercised its appellate jurisdiction and reviewed the separate Closing Orders after finding the issuance illegal;²⁴ (7) whether the Pre-Trial Chamber Judges were obliged to provide a unanimous decision on the legal effect of the illegal issuance of the Closing Orders to guarantee legal certainty;²⁵ (8) what legal authority did the National Judges of the Pre-Trial Chamber apply to justify their review of the Closing Orders and whether their determination that the disagreement settlement procedures cannot be circumvented by “convoluted interpretative constructions” can be reconciled with their finding that the Co-Investigating Judges are able to opt-out of such procedures at will;²⁶ (9) how the Dismissal Order can be deemed a legitimate basis for the National Judges of the Pre-Trial Chamber to dismiss the case when the Chamber unanimously provided a detailed analysis of how the Co-Investigating Judges violated the “very foundations of the ECCC framework”;²⁷ (10) whether the National Judges of the Pre-Trial Chamber resorted to the principle of *in dubio pro reo* after applying the civil law rules of interpretation as per the Supreme Court Chamber jurisprudence;²⁸ (11) the legal basis employed by the International Judges of the Pre-Trial Chamber in differentiating between the issuance of the Closing Orders before the conclusion of the investigation and the language of Internal Rule 67(1), which provides that the Co-Investigating Judges “shall conclude the investigation by issuing a Closing Order” and how a default position reserved for disagreements between the Co-Investigating Judges

²¹ Request (D266/19 and D267/24), para. 21.

²² Request (D266/19 and D267/24), para. 23.

²³ Request (D266/19 and D267/24), para. 25.

²⁴ Request (D266/19 and D267/24), para. 27.

²⁵ Request (D266/19 and D267/24), para. 29.

²⁶ Request (D266/19 and D267/24), para. 31.

²⁷ Request (D266/19 and D267/24), para. 33.

²⁸ Request (D266/19 and D267/24), para. 35.



during their investigation can be applied to resolve the illegal issuance of two Closing Orders;²⁹ and (12) how the Trial Chamber can be seised of a procedurally defective, illegal Indictment.³⁰

13. The Co-Lawyers submit that their Request is made necessary because of the legal uncertainty that will result in Case 003 were the Pre-Trial Chamber to adopt the same approach as it has in Case 004/2.³¹ They argue that MEAS Muth's fair trial rights would be irreparably harmed since he will not have the opportunity to address these issues once the Pre-Trial Chamber decides on the appeals in Case 003.³²

14. Lastly, the Co-Lawyers contend that granting the Request is in the interests of justice because clarification will promote judicial efficiency, legal certainty, and transparency at no prejudice to the Co-Prosecutors or the Civil Parties, as it will assist all Parties in determining whether further submissions should be made before the Pre-Trial Chamber.³³ On this basis, they request an oral hearing for the Parties to fully air their reasoned positions.³⁴

15. In her Response, the International Co-Prosecutor submits that the Request should be dismissed as inadmissible and opposes the request for an oral hearing,³⁵ because the Request is (i) an unjustified and untimely attempt to re-open the briefing in Case 003 during deliberations, risking significant delays in the resolution of pending appeals in the case;³⁶ and (ii) an illegitimate attempt to intervene in Case 004/2 in which MEAS Muth has neither standing nor justifying circumstances.³⁷

16. At the outset, the International Co-Prosecutor notes that the Co-Lawyers' Request for "clarification" effectively seeks an "advisory opinion" of the Pre-Trial Chamber before its final disposition of Case 003.³⁸ She argues that the Request

²⁹ Request (D266/19 and D267/24), para. 37.

³⁰ Request (D266/19 and D267/24), para. 39.

³¹ Request (D266/19 and D267/24), paras 40, 41, 44, 47.

³² Request (D266/19 and D267/24), p. 1.

³³ Request (D266/19 and D267/24), para. 48.

³⁴ Request (D266/19 and D267/24), para. 48.

³⁵ Response (D266/20 and D267/25), paras 1, 2, 20.

³⁶ Response (D266/20 and D267/25), paras 1, 9-16.

³⁷ Response (D266/20 and D267/25), paras 17-19.

³⁸ Response (D266/20 and D267/25), paras 9-10



constitutes an illegitimate attempt to re-open the briefing in Case 003 as the Co-Lawyers advocate for a Pre-Trial Chamber's disposition departing from that in Case 004/2, and that the Pre-Trial Chamber either remits the Case File to the Co-Investigating Judges or reviews the Case File itself.³⁹

17. The International Co-Prosecutor firstly submits that the Request is inadmissible and untimely.⁴⁰ In support, she notes that considering the absence of any provision in the Internal Rules permitting submission of additional request or argument at this stage in the proceedings, i.e., following completion of the briefing on appeal of Case 003, of the oral hearings and after the Pre-Trial Chamber has retired for deliberation, it must be assumed that the Pre-Trial Chamber does not require the Parties' assistance in considering the impact of the Considerations on the Case 003 Appeals unless the Chamber seeks submissions from the Parties in this regard.⁴¹ She further contends that there is no provision in the ECCC legal framework for a motion for clarification of judicial decisions.⁴² While the Supreme Court Chamber stated that the Chambers may provide, and have provided, in certain circumstances and in the interests of justice, authentic interpretation of a judicial decision to clarify legal issues in ongoing matters, the Pre-Trial Chamber has made it clear that it will not entertain requests that either "aimed at obtaining clarification from the [Pre-Trial Chamber] of a previously given reasoning in a decision with which the Charged Person does not agree" or requests for clarification in cases to which the Charged Person is not a party.⁴³

18. With respect to the questions posed in the Request, the International Co-Prosecutor asserts that they are an illegitimate challenge to the Judges' reasoning, as the Co-Lawyers aim at requesting justification for particular findings in Case 004/2⁴⁴ and are flawed in demanding unanimity within the Pre-Trial Chamber as the ECCC legal framework recognises that unanimity is not required and may not be

³⁹ Response (D266/20 and D267/25), paras 9-10.

⁴⁰ Response (D266/20 and D267/25), paras 9-16.

⁴¹ Response (D266/20 and D267/25), para. 11.

⁴² Response (D266/20 and D267/25), para. 12.

⁴³ Response (D266/20 and D267/25), para. 12.

⁴⁴ Response (D266/20 and D267/25), para. 13.



possible.⁴⁵ She further avers that the Co-Lawyers fail to substantiate their claims that admitting the Request contributes to achieving legal certainty or transparency since any legal uncertainty or *lacuna* was removed by the Pre-Trial Chamber's finding on the illegal issuance of two Closing Orders and its effect on each Closing Order.⁴⁶ Further, the International Co-Prosecutor refutes the Co-Lawyers' contention that MEAS Muth's right to an effective appeal would be affected as his rights to a fair trial have been safeguarded by the opportunity he was given to argue, in writing and orally, the essence of the issues underpinning the Request.⁴⁷

19. The International Co-Prosecutor adds that granting the Request risks significant delays in the disposition of Case 003 considering the Co-Lawyers' preference regarding the consolidation of Cases 003, 004, and 004/2, and the Request itself with supplementary submissions and a request for an oral hearing, which foresees an endlessly iterative process with several stages of further litigation.⁴⁸

20. The International Co-Prosecutor secondly submits that the Request is inadmissible as it constitutes MEAS Muth's illegitimate attempt to intervene in Case 004/2.⁴⁹ In support, she argues that the Request, in essence, requires the Pre-Trial Chamber to re-open Case 004/2 in which MEAS Muth has no standing as he is neither a party to the Case nor invited to participate as *amicus curiae*.⁵⁰ She further contends that in light of the Supreme Court Chamber's holding on intervention, it is not necessary to allow MEAS Muth to intervene in Case 004/2.⁵¹

21. The International Co-Prosecutor emphasises the jurisprudence of the Pre-Trial Chamber that the Chamber will not readily entertain requests from non-parties to intervene as its decisions are not directly applicable to non-parties, who are required to raise legal issues in the context of their own cases.⁵² In this case, the International

⁴⁵ Response (D266/20 and D267/25), para. 14.

⁴⁶ Response (D266/20 and D267/25), para. 14.

⁴⁷ Response (D266/20 and D267/25), para. 15.

⁴⁸ Response (D266/20 and D267/25), paras 10, 16.

⁴⁹ Response (D266/20 and D267/25), paras 17-19.

⁵⁰ Response (D266/20 and D267/25), para. 17.

⁵¹ Response (D266/20 and D267/25), para. 17.

⁵² Response (D266/20 and D267/25), para. 18.



Co-Prosecutor reiterates, MEAS Muth's rights to a fair trial have been safeguarded and legal certainty has not been jeopardised.⁵³

22. Lastly, the International Co-Prosecutor contends that considering the 12 and 16 March Memoranda of the International and the National Judges of the Pre-Trial Chamber as well as the ECCC Internal Rules and jurisprudence, the Pre-Trial Chamber no longer has jurisdiction over Case 004/2 as no supermajority decision was reached to overturn the Case 004/2 Indictment.⁵⁴

23. In their Reply, the Co-Lawyers submit that, the International Co-Prosecutor not only fails to respond on the substance of the Request,⁵⁵ but also that none of her claims in the Response warrants the Pre-Trial Chamber to find the Request inadmissible or to deny the sought relief.⁵⁶

24. The Co-Lawyers argue that contrary to the International Co-Prosecutor's misleading and erroneous claims, the Request (i) seeks clarification, not a specific disposition, in light of the procedural impasse in the Case 004/2 as well as the divergent understandings of the Considerations by the Parties and the Pre-Trial Chamber Judges;⁵⁷ (ii) seeks clarification, not an advisory opinion, of legal issues which, if left "unaddressed", will lead to the inevitable impasse seen in Case 004/2;⁵⁸ and (iii) solely concerns Case 003 and requires no further written submissions, thereby not causing an endlessly iterative process.⁵⁹

25. With respect to the International Co-Prosecutor's argument that the Request is inadmissible and untimely, the Co-Lawyers aver that (i) the Request does not attempt to reopen the briefing in Case 003 and was prompted by the Case 004/2 Considerations and the subsequent filings surfacing after the briefing in Case 003;⁶⁰ (ii) the International Co-Prosecutor concedes that the ECCC legal framework permits

⁵³ Response (D266/20 and D267/25), para. 18.

⁵⁴ Response (D266/20 and D267/25), para. 19.

⁵⁵ Reply (D266/21 and D267/26), para. 13.

⁵⁶ Reply (D266/21 and D267/26), para. 1.

⁵⁷ Reply (D266/21 and D267/26), para. 2.

⁵⁸ Reply (D266/21 and D267/26), para. 3.

⁵⁹ Reply (D266/21 and D267/26), para. 4.

⁶⁰ Reply (D266/21 and D267/26), para. 5.



clarification of judicial decisions by citing a Supreme Court Chamber jurisprudence;⁶¹ (iii) the plain reading of the Request indicates that it neither seeks to challenge or respond to the Pre-Trial Chamber's Considerations nor requests for the Chamber's reconsideration;⁶² (iv) clarification of the Pre-Trial Chamber's intention in finding the issuance of two Closing Orders illegal will foster the legal certainty and transparency as to the legal consequence of that finding;⁶³ (v) MEAS Muth's right to an effective appeal will be negatively affected by the Request's dismissal as the Pre-Trial Chamber's finding of illegal issuance of separate Closing Orders renders both Appeals of MEAS Muth and the International Co-Prosecutor moot;⁶⁴ and (vi) granting the Request will not cause significant delay as the Pre-Trial Chamber is fully briefed with the filing of the Reply and could expeditiously schedule hearings *via* video-link.⁶⁵

26. Concerning the International Co-Prosecutor's contention regarding MEAS Muth's intervention in Case 004/2, the Co-Lawyers argue that (i) the Request does not require the Pre-Trial Chamber to re-open proceedings and reconsider its Considerations in Case 004/2 as the Request seeks only the Pre-Trial Chamber's elaboration on its reasoning in Case 004/2 and its effect on Case 003;⁶⁶ and that (ii) the Pre-Trial Chamber still has jurisdiction over Case 004/2 as the Case File has not been transferred to the Trial Chamber.⁶⁷

III. DISCUSSION

27. The Pre-Trial Chamber is seised with the Appeals against the two conflicting Closing Orders in Case 003.⁶⁸ The proceedings in this case are now closed and the Pre-Trial Chamber examines the arguments of the Parties and deliberates on the Appeals pursuant to Internal Rule 77.

⁶¹ Reply (D266/21 and D267/26), para. 6.

⁶² Reply (D266/21 and D267/26), para. 7.

⁶³ Reply (D266/21 and D267/26), para. 8.

⁶⁴ Reply (D266/21 and D267/26), para. 9.

⁶⁵ Reply (D266/21 and D267/26), para. 10.

⁶⁶ Reply (D266/21 and D267/26), para. 11.

⁶⁷ Reply (D266/21 and D267/26), para. 12.

⁶⁸ National Co-Prosecutor's Appeal against the Indictment (D267/3); MEAS Muth's Appeal against the Indictment (D267/4); International Co-Prosecutor's Appeal against the Dismissal Order (D266/2).



28. At the outset, the Pre-Trial Chamber considers that the Chamber's issuance of considerations or decisions in a different proceeding has no immediate impact on the pending case. Nevertheless, it is not insensitive to the argument that its rulings may be misunderstood.

29. The Pre-Trial Chamber observes the Co-Lawyers' submission that the Request is admissible and made necessary for the interests of justice, as "clarification will promote judicial efficiency, legal certainty, and transparency", in addition to safeguarding MEAS Muth's right to a fair trial.⁶⁹

30. In this regard, the Pre-Trial Chamber specifies that, while the ECCC legal framework does not explicitly foresee such possibility, the judicial chambers of the ECCC may provide legal guidance or clarification on a judicial decision where the interests of justice so require.⁷⁰ The Chamber further recalls that it will not admit requests for clarification, which are "aimed at obtaining clarification from the [Pre-Trial Chamber] of previously given reasoning in a decision with which the Charged Person does not agree", because a judicial decision is definitive and is not to be elaborated further upon.⁷¹

31. In examining the Case and the Request at hand, the Pre-Trial Chamber finds that the Considerations in Case 004/2 provided the legal certainty and transparency required for a judicial decision emanating from the Chamber under the specific circumstances of that case. The Pre-Trial Chamber finds that the judicial efficiency dictates that proceedings in Case 003 must progress and that the Request may not be entertained at this very final stage of the pre-trial phase.

⁶⁹ Request (D266/19 and D267/24), p. 1.

⁷⁰ The Supreme Court Chamber found that "similar processes for the clarification or determination of legal issues are not uncommon at the international level. On this basis, the Supreme Court Chamber considers that, where the interests of justice so require, it may grant a request for legal guidance.", *see* Case No. 002/19-09-2007-ECCC-TC/SC ("Case 002"), Decision on Co-Prosecutors' Request for Clarification, 26 June 2013, E284/2/1/2, para. 5 *citing* Case 002, Decision on Requests by the Trial Chamber and the Defence for IENG Thirith for Guidance and Clarification, 31 May 2013, E138/1/10/1/5/8/2, para. 12.

⁷¹ Case No. 002/19-09-2007-ECCC/OCIJ (PTC24), Decision on Request for Clarification of Statement by Pre-Trial Chamber, 17 November 2009, D164/4/12, paras 4, 6.



32. As for safeguarding the fair trial rights of the Charged Person, the Pre-Trial Chamber notes that the Appeals in this case have been extensively briefed by written submissions⁷² and orally argued by the Parties during a three-day Hearing.⁷³ The right to a fair trial under Internal Rule 21 has been duly safeguarded. Consequently, the Pre-Trial Chambers finds that the clarification sought is not required by the interests of justice in the present case.

33. The Pre-Trial Chamber considers that the Request is in fact calling for the Chamber's final disposition in the current proceedings, which will be issued in due time. There is no reason for the Pre-Trial Chamber to rule prematurely on a matter falling within the scope of ongoing Appeals.

34. Therefore, the Pre-Trial Chamber finds that the Request is inadmissible.

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

- **DENIES** the Request as inadmissible;
- **DISMISSES** the Co-Lawyers' request for a hearing accordingly.

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

Phnom Penh, 3 November 2020

Pre-Trial Chamber



[Handwritten signatures of Olivier Beauvallet, Ney Thol, Kang Jin Baik, and Huot Vuthy]

Olivier BEAUVALLET NEY Thol Kang Jin BAIK HUOT Vuthy

⁷² National Co-Prosecutor's Appeal against the Indictment (D267/3; MEAS Muth's Appeal against the Indictment (D267/4); International Co-Prosecutor's Appeal against the Dismissal Order (D266/2).

⁷³ Case 003, Scheduling Order for the Pre-Trial Chamber's Hearing on Appeals against Closing Orders, 24 October 2019, D266/12.

