

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

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**YIM TITH'S RESPONSE TO THE INTERNATIONAL  
CO-PROSECUTOR'S APPEAL OF THE NATIONAL  
CO-INVESTIGATING JUDGE'S CLOSING ORDER**

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## INTRODUCTION

1. Mr YIM Tith, through his Co-Lawyers ('the Defence'), hereby submits YIM Tith's Response to the International Co-Prosecutor's Appeal of the National Co-Investigating Judge's Closing Order ('Response'). The Pre-Trial Chamber ('PTC') unanimously found in Case 004/02 that there is no legal basis for the Co-Investigating Judges ('CIJs') to issue two separate Closing Orders. It follows that the two Closing Orders issued in Case 004 by the National Co-Investigating Judge ('NCIJ') and the International Co-Investigating Judge ('ICIJ') are illegal, and consequently, null and void.<sup>1</sup> All submissions on the merits of the Closing Orders are now irrelevant to the current proceedings, rendering the International Co-Prosecutor's ('ICP') Appeal moot. Accordingly, the PTC should dismiss the defective Closing Orders and either: (i) do so with full prejudice and dismiss the case against Mr YIM Tith; (ii) return the Case File to the CIJs to jointly issue a single Closing Order; or (iii) assess Case File 004 itself and issue its own Closing Order.

## PROCEDURAL HISTORY

2. The Defence incorporates by reference the procedural histories included in *Yim Tith's Combined Response to the National and International Co-Prosecutors' Final Submissions*,<sup>2</sup> in *Yim Tith's Appeal of the Issuance of Two Closing Orders in Case 004*,<sup>3</sup> and in *Yim Tith's Appeal of the International Co-Investigating Judge's Closing Order in Case 004*.<sup>4</sup>
3. On 5 December 2019, the ICP filed the *International Co-Prosecutor's Appeal of the Order Dismissing the Case Against Yim Tith (D381)* ('ICP's Appeal').<sup>5</sup>

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<sup>1</sup> *Order Dismissing the Case against Yim Tith*, 28 June 2019, D381. *Closing Order*, 28 June 2019, D382.

<sup>2</sup> *Yim Tith's Combined Response to the National and International Co-Prosecutors' Final Submissions*, 26 November 2018, D378/5, paras 14 to 105.

<sup>3</sup> *Yim Tith's Appeal of the Issuance of Two Closing Orders in Case 004*, 2 December 2019, D381/18 ('Appeal of the Issuance of Two Closing Orders'), paras 4 to 10.

<sup>4</sup> *Yim Tith's Appeal of the International Co-Investigating Judge's Closing Order in Case 004*, 4 December 2019, D382/22, paras 3 to 9.

<sup>5</sup> *International Co-Prosecutor's Appeal of the Order Dismissing the Case Against Yim Tith (D381)*, 5 December 2019, D381/19.

4. On 6 December 2019, the Co-Lawyers for the Civil Parties filed the *Civil Party Co-Lawyers' Appeal against the National Co-Investigating Judge's Closing Order in Case 004*.<sup>6</sup>
5. On 11 December 2019, the Defence filed *Yim Tith's Urgent Request for Extension of Page and Time Limits for His Responses to the Appeals of the Closing Orders*.<sup>7</sup> The ICP responded on 20 December 2019.<sup>8</sup>
6. On 6 January 2020, the PTC issued the *Decision on Requests for Extensions of Page and Time Limits for Responses relating to Appeals in Case 004*.<sup>9</sup>

### **RESPONSE: THE ICP'S APPEAL IS RENDERED MOOT**

7. The ICP's Appeal, in its entirety, is rendered moot, since (i) the PTC has decided unanimously in Case 004/02 that there is no legal basis for the CIJs to issue two Closing Orders; (ii) both Closing Orders in Case 004 are consequently null and void; and as a result (iii) all individual grounds of appeal on the merits of the Closing Orders are now irrelevant to the current proceedings.

#### **I. THE ISSUANCE OF TWO CLOSING ORDERS HAS NO LEGAL BASIS**

8. The PTC judges have signed a unanimous disposition in Case 004/02 that 'DECLARES that the Co-Investigating Judges' issuance of the Two Conflicting Closing Orders was illegal, violating the legal framework of the ECCC.'<sup>10</sup>
9. The PTC held that the CIJs 'committed a gross error of law'<sup>11</sup> by the 'unprecedented simultaneous issuance of two separate and opposing Closing Orders in one single case,'<sup>12</sup> and that the CIJs had 'violated the ECCC legal framework, derogated from

<sup>6</sup> *Civil Party Co-Lawyers' Appeal Against the National Co-Investigating Judge's Closing Order in Case 004*, 1 December 2019, D381/20.

<sup>7</sup> *Yim Tith's Urgent Request for Extension of Page and Time Limits for His Responses to the Appeals of the Closing Orders*, 11 December 2019, D381/21 and D382/23.

<sup>8</sup> *International Co-Prosecutor's Response to YIM Tith's Extension Requests relating to the Appeals in Case 004*, 20 December 2019, D381/23 and D382/25.

<sup>9</sup> *Decision on Requests for Extensions of Page and Time Limits for Responses relating to Appeals in Case 004*, 6 January 2020, D381/24 and D382/26.

<sup>10</sup> Case 004/02, *Considerations on Appeals Against Closing Orders*, 19 December 2019, D359/24 and D360/33 ('Case 004/02 Considerations'), p. 61.

<sup>11</sup> *Ibid.*, paras 98 and 99.

<sup>12</sup> *Ibid.*, para. 88.

their highest duties and created an unprecedented legal predicament undermining the very foundations of their judicial office.’<sup>13</sup> The PTC ‘unequivocally denounce[d] and condemn[ed] this grave violation of the ECCC legal system’ and found that the CIJs had ‘violated the very foundations of the ECCC legal system.’<sup>14</sup>

10. The PTC found it clear and unambiguous that under the ECCC legal framework, a Closing Order must be a single decision and that the framework makes no allowance for the issuance of split Closing Orders.<sup>15</sup> The PTC found that Rule 67(1) ‘clearly stipulates’ that the CIJs ‘shall’ conclude the investigation by issuing ‘a Closing Order, *either* indicting a Charged Person [...], *or* dismissing the case.’<sup>16</sup> The PTC considered that the Glossary in the Internal Rules provides that a ‘Closing Order refers to *the* final order made by the Co-Investigating Judges or the Pre-Trial Chamber at the end of the judicial investigation, *whether* Indictment *or* Dismissal Order.’<sup>17</sup> The PTC also reasoned that the interpretative clause in Rule 1(2) ‘does not offer a sufficient basis to override or undermine core principles of the ECCC Agreement [...] or to claim a power when the effects of such power would conflict with those principles.’<sup>18</sup> The PTC concluded by stressing that:

[T]he errors committed by the Co-Investigating Judges in this case undermine the very foundations of the hybrid system and proper functioning of the ECCC. Despite the crucial and sensitive nature of the matter at stake, the Co-Investigating Judges have allowed themselves to issue the split Closing Orders with remarkably minimal reasoning to justify their action, recalling simply one of their prior decisions. The Chamber finds it especially disturbing that the split Closing Orders were issued on the same day, in one language only, with

<sup>13</sup> *Ibid.*, para. 89.

<sup>14</sup> *Ibid.*, paras 100 and 102.

<sup>15</sup> *Ibid.*, paras 120 to 121.

<sup>16</sup> *Ibid.*, para. 121 (italic emphasis in original). The ECCC legal framework provides further support. Under Article 5(4) of the Agreement Between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea (‘UN-RGC Agreement’), 6 June 2003, the CIJs are required to ‘cooperate with a view to arriving at a common approach to the investigation.’ Under Article 23<sup>new</sup> of the Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea, 10 August 2001, with inclusion of amendments as promulgated on 27 October 2004 (NS/RKM/1004/006) (‘Establishment Law’), investigations are ‘the joint responsibility of two investigating judges.’ Rule 14’s text means that the CIJs will carry out their investigations jointly and with equal authority and this provision does not refer to the CIJs acting individually to issue a Closing Order (notably the Rule 14(4) requirement under which the issuance of a Closing Order is an action that must be ‘taken jointly under the ECCC Law and these IRs’ such that no delegation from the rule is possible). Lastly, there is no reference anywhere in the UN-RGC Agreement, Establishment Law, or Internal Rules to the possibility of unilateral issuance by a CIJ of a separate Closing Order. See Appeal of the Issuance of Two Closing Orders, paras 22 to 30.

<sup>17</sup> Case 004/02 Considerations, para. 121 quoting Internal Rules, Glossary, p. 83 (italic emphasis in original).

<sup>18</sup> *Ibid.*, para. 121.

*an explicit declaration by the two Judges that they agreed on the unlawful issuance of separate and conflicting Closing Orders.* The Chamber considers that the Co-Investigating Judges' malpractice has in this case jeopardised the whole legal system upheld by the Royal Government of Cambodia and the United Nations. It is astonishing to observe that the Judges were fully "aware of the problem" that the issuance of split Closing Orders would cause, notably on appeal [...].<sup>19</sup>

[T]he Pre-Trial Chamber strongly deplores and condemns the unprecedented legal predicament which the Co-Investigating Judges' unlawful actions have precipitated upon the current ECCC proceeding.<sup>20</sup>

11. The PTC's unanimous finding in Case 004/02 must be applied equally to Case 004. Rule 21 mandates legal certainty in ECCC proceedings.<sup>21</sup> The same judicial bench is hearing the appeals in Case 004 and both cases face the identical procedural situation of opposing Closing Orders. The unanimous, unequivocal finding of the PTC has in effect upheld the Defence's argument in its Appeal of the Issuance of Two Closing Orders.<sup>22</sup> It is now beyond dispute that the two impugned Closing Orders that were the subject of the Case 004 appeals lack any basis in the ECCC legal framework.

<sup>19</sup> *Ibid.*, para. 123 (italic emphasis added).

<sup>20</sup> *Ibid.*, para. 124.

<sup>21</sup> The PTC considered that it is 'required to ensure that "[t]he applicable ECCC Law, Internal Rules, Practice Directions and Administrative Regulations [are] interpreted so as to safeguard the interests of Suspects, Charged Persons, Accused and Victims and so as to ensure legal certainty and transparency of the proceedings" throughout the pre-trial stage.' Case 004/02 Considerations, para. 51 quoting Rule 21. 'One of the fundamental aspects of the rule of law is the principle of legal certainty, which requires, *inter alia*, that where the courts have finally determined an issue, their ruling should not be called into question.' ECtHR, *Brumărescu v. Romania*, Application No. 28342/95, Judgment, 28 October 1999, para. 61; ECtHR, *Kehaya and Others v. Bulgaria*, Application Nos. 47797/99 and 68698/01, Judgment, 12 January 2006, para. 61; ECtHR, *Ryabykh v. Russia*, Application No. 52854/99, Judgment, 24 July 2003, para. 51. '[W]here there are divergences in the application of substantively similar legal provisions to persons in near identical groups, a problem with legal certainty does arise.' ECtHR, *Ștefănică and Others v. Romania*, Application No. 38115/02, Judgment, 2 November 2010, para. 37 (internal citations omitted). Inconsistent adjudication of claims brought by persons in similar situations leads to a state of uncertainty, which reduces the public's confidence in the judiciary and deprives individuals of the right to a fair trial. See *ibid.*, para. 38.

<sup>22</sup> Appeal of the Issuance of Two Closing Orders, para. 2: 'By electing to issue their own separate and conflicting Closing Orders in Case 004, both the NCIJ and the ICIJ acted in contravention of the *Constitution of the Kingdom of Cambodia* [...], the *Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea* [...], and the Rules. The Closing Orders submitted by the CIJs must accordingly be rejected as procedurally defective under Rule 67(2). The Defence submits that the PTC must now intervene to provide Mr YIM Tith with the definitive conclusion to the investigation to which he is entitled and to protect his fundamental fair trial rights.'

**II. THE NCIJ'S AND ICIJ'S CLOSING ORDERS ARE NULL AND VOID**

12. The effect of the PTC's unanimous finding is that both Closing Orders in Case 004 are null and void. It is trite law that a judicial order with no legal basis is a nullity, meaning, in other words, that to all intents and purposes it no longer exists.<sup>23</sup>
13. It is axiomatic that ECCC proceedings must take place in accordance with the applicable law.<sup>24</sup> As the PTC has recognised, Rule 67 is the applicable law for the issuance of a Closing Order.<sup>25</sup>
14. Under Rule 67(2), an Indictment is 'void for procedural defect' if it does not set out 'the identity of the Accused, a description of the material facts and their legal characterisation by the Co-Investigating Judges, including the relevant criminal provisions and the nature of the criminal responsibility.'<sup>26</sup> Given the specificity of the conditions in Rule 67(2), and the 'void', not voidable, nature of any Indictment that has procedural defects, it is beyond question that a Closing Order not issued in strict conformity with the ECCC's procedural law is null and void. The drafters of Rule 67 could not have envisaged every novel twist and turn of ECCC proceedings, still less the unlawful situation in which the CIJs would indict and dismiss at the same time, hence there is a *lacuna* in Rule 67. Despite the absence in Rule 67 of any reference to the current procedural impasse facing the PTC judges, it unambiguously provides that a Closing Order that has no basis in the ECCC's procedural law is null and void.

<sup>23</sup> Black's Law Dictionary defines *nullius in loco* as 'of no legal force,' *void* as 'of no legal effect; null' and a *void judgment* as 'A judgment that has no legal force or effect, the invalidity of which may be asserted by any party whose rights are affected at any time and any place, whether directly or collaterally. From its inception, a void judgment continues to be absolutely null. It is incapable of being confirmed, ratified, or enforced in any manner or to any degree.' Garner, B., [Ed.] *Black's Law Dictionary*, 9th edition, pp. 921, 1173 and 1709.

<sup>24</sup> Article 13(1) of the UN-RGC Agreement provides for the protection of the rights of the accused in accordance with Articles 14 and 15 of the International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171 ('ICCPR'). Article 14(1) of the ICCPR states: 'everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.' See UN-RGC Agreement, Article 13(1); see also Establishment Law, Article 35<sup>new</sup>, providing for the applicability of the minimum guarantees in Article 14 of the ICCPR. Article 33<sup>new</sup> of the Establishment Law provides that ECCC trials must be '[...] conducted in accordance with existing procedures in force [...]'. Rule 21 further provides that 'The applicable ECCC Law, Internal Rules, Practice Directions and Administrative Regulations shall be interpreted so as to always safeguard the interests of Suspects, Charged Persons, Accused and Victims and so as to ensure legal certainty and transparency of proceedings, in light of the inherent specificity of the ECCC, as set out in the ECCC Law and the ECCC Agreement.'

<sup>25</sup> Case 004/02 Considerations, p. 61.

<sup>26</sup> Rule 67(2): 'The Indictment shall be void for procedural defect unless it sets out the identity of the Accused, a description of the material facts and their legal characterisation by the Co-Investigating Judges, including the relevant criminal provisions and the nature of the criminal responsibility.'

15. The interpretation of Rule 67(2)'s provisions on the annulment of procedurally defective Closing Orders, including the *lacuna* therein, must be carried out in accordance with the civil law rules of interpretation. According to the Supreme Court Chamber, these interpretive rules 'take[e] into account the language of the provision, its place in the system, including its relation to the main underlying principles, and its objectives.'<sup>27</sup>
16. Aside from Rule 67(2), the ECCC legal framework does not contain any other specific rule or principle for the annulment of Closing Orders. In order to correctly interpret Rule 67(2) within the 'system' of annulment in ECCC pre-trial proceedings, it must be read in the context of the Rule 76 provisions on annulment during the judicial investigation. Under Rule 76(1), the CIJs are required to notify the parties of any part of the proceedings that they consider to be null and void. Rule 76(2) grants the parties the right to submit annulment requests to the CIJs prior to the close of the judicial investigation and to request them to seize the PTC. Rule 76(7) provides that procedural defects in the investigation will be cured by the Closing Order and that the curing of procedural defects by the Closing Order is 'subject to appeal.' The drafters of Rule 76 crafted these annulment mechanisms while contemplating that pre-trial annulments would take place only during the judicial investigation, not afterwards. They could not have envisaged the need for a procedure to challenge the legal basis of the Closing Order's issuance itself.<sup>28</sup>
17. In correctly interpreting Rule 67(2), the content of Rule 76 supports that *the main underlying principles and objectives of the system* for pre-trial annulments are to ensure that the CIJs' procedurally defective actions or orders are subjected to annulment by the PTC. In both the English and French versions of Rule 76(5), the equivalent terms

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<sup>27</sup> Case 002/01, *Decision on Immediate Appeal by KHIEU Samphan on Application for Release*, 6 June 2011, E50/3/1/4, para. 31.

<sup>28</sup> Indeed, judicial opinion in the ECCC PTC has recognised that action taken in respect of unauthorised procedures will be void: 'A fair hearing or determination of a matter will involve [sic] not only a right to know the case one has to answer and a right to be heard, but also a right to procedural fairness. Procedural fairness in this regard will include a transparent and authorised procedure where the rights and obligations are properly provided, expressed and applied. In this way there is certainty in the expectation that a matter will be dealt with in a predictable, proper and defined manner. It is not for a court or judges, without any authorisation, to change stated procedures as a matter of expediency or for any other unauthorised reason. This is fundamentally procedurally unfair. Any action taken in respect of such unauthorised procedure is void.' Case 002, *Decision on Appeals Against Co-Investigating Judges' Combined Order D250/3/3 Dated 13 January 2010 and Order 250/3/2 Dated 13 January 2010 on Admissibility of Civil Party Applications*, 27 April 2010, D250/3/2/1/5, Opinion of Judges PRAK Kisman and Rowan Downing in Respect of the Declared Inadmissibility of Admitted Civil Parties, para. 13.

for ‘annulment’ and ‘cancellation’ are used interchangeably.<sup>29</sup> In French, ‘*annuler*’ means ‘to set aside; declare void’<sup>30</sup> while ‘*cancellation*’ is synonymous with ‘*annulation*,’ meaning ‘erasing an act that is written.’<sup>31</sup> Under Rule 76(5), an annulled or cancelled procedurally defective act no longer exists; it is *removed* from the Case File and it is prohibited to draw any inference against the parties from it.<sup>32</sup> This annulment procedure is mirrored in Articles 280 and 281 of the Cambodian Code of Criminal Procedure and Articles 174 and 206 of the French Code of Criminal Procedure.<sup>33</sup>

18. The proposition that an illegally issued Closing Order is procedurally defective within the meaning of Rule 67(2) finds further support in domestic and international jurisdictions. The PTC has adopted an interpretive approach in which, after applying the standard rules of interpretation to the ECCC legal framework, it will then look to Cambodian procedure, then procedure at the international level.<sup>34</sup>

<sup>29</sup> The French language version of Rule 76(5) refers to ‘les parties annulées sont cancellées’ and ‘[a]près annulation ou cancellation, [...]’.

<sup>30</sup> F.H.S. Bridge, *The Council of Europe French-English Legal Dictionary*, Council of Europe Publishing, 1994, p. 16.

<sup>31</sup> According to the commentary of Professeur Jean-Paul Doucet, *cancellation* is defined in terms of the French verb *biffer*: ‘CANCELLATION (Canceller): Cf. Abolition, Nullité. Du latin “cancellare”: biffer. Terme juridique visant le fait d’annuler un acte juridique d’une manière matérielle : en le biffant, en le raturant ou en le lacérant.’ *Dictionnaire de Droit Criminel*, ‘Cancellation,’ available at [https://ledroitcriminel.fr/dictionnaire/lettre\\_c/lettre\\_c\\_can.htm](https://ledroitcriminel.fr/dictionnaire/lettre_c/lettre_c_can.htm) (last accessed 18 February 2020). A publicly available French dictionary defines *cancellation* as: ‘Fait d’annuler un acte en effaçant ce qui est écrit. Signifie également “annulation”.’ *Linternaute, Dictionnaire Française*, ‘Cancellation,’ available at <https://www.linternaute.fr/dictionnaire/fr/definition/cancellation/> (last accessed 18 February 2020).

<sup>32</sup> The PTC ordered ‘the cancellation and removal’ of procedurally defective parts of the investigation from the Case File in *Decision on YIM Tith’s Application to Annul the Investigative Material Produced by Paolo Stocchi*, 25 August 2017, D351/1/4, para. 36 and p. 17.

<sup>33</sup> Cambodian Code of Criminal Procedure, Article 281: ‘After nullification, the Investigation Chamber may: return the dossier to the investigating judge; revoke competence from one investigating judge and send [the] dossier to another investigating judge; or continue the investigation of the case by itself.’ French Code of Criminal Procedure, Article 206: ‘After an annulment, [the Investigation Chamber] may either transfer the case to itself and proceed pursuant to the conditions set out in articles 201, 202 and 204, or return the case file to the same investigating judge or to another investigating judge in order to continue the investigation.’ [Légifrance Translation]. See also Cambodian Code of Criminal Procedure, Article 280; French Code of Criminal Procedure, Article 174.

<sup>34</sup> The PTC has held that the Internal Rules are the principle source of procedural law at the ECCC and that Cambodian criminal procedure ‘should only be applied where a question arises which is not addressed by the Internal Rules.’ Case 002, *Decision on Nuon Chea’s Appeal against Order Refusing Annulment*, 26 August 2008, D55/1/8, paras 14 to 15. Where Cambodian criminal procedure ‘does not deal with a particular matter,’ the Chamber may seek guidance in procedural rules established at the international level. See UN-RGC Agreement, Article 12(1); Establishment Law, Article 33*new*; Rule 2. See also Case 002/01, *Decision on Ieng Sary’s Appeal Against the Closing Order*, 11 April 2011, D427/1/30, paras 118 to 126. The PTC considered the correct interpretation of the term ‘acquitted’ in Article 12 of the Cambodian Code of Criminal Procedure. The PTC set out the ‘recognised principles of interpretation’ with regard to the construction of statutes and all written instruments noting that ‘the grammatical and ordinary sense of the words is to be adhered to unless that would



19. In civil law jurisdictions other than Cambodia and France, it is prescribed by law that illegally issued orders are null and void and consequently have no legal effect. For instance, in the Republic of Korea, '[p]ublic prosecution shall be dismissed by judgment [...] [w]here the procedure for instituting public prosecution is void by reason of its having been contrary to the provisions of laws.'<sup>35</sup> In another example, Libya, nullity occurs upon non-observance of the law and when a procedure is deemed invalid 'all effects resulting directly from such procedure shall likewise be deemed invalid.'<sup>36</sup>
20. From the Defence's analysis of civil law jurisdictions, it is obvious that the principle that illegally issued orders are null and void and consequently have no legal effect is *trite law*, a principle so notorious and entrenched that it is commonly known and rarely disputed. Inevitably, case law in which judges deliberate over the meaning of this principle is scant or non-existent.<sup>37</sup>
21. It is also considered *trite law* in common law jurisdictions. Although the principle that unlawful judicial decisions are 'null and void' and lack legal effect is often invoked in the jurisprudence, it is rarely disputed. In United States jurisprudence, for instance, '[t]he effect of determining that a judgment is void is well established. It is as though such proceedings had never occurred; the judgment is a mere nullity and the parties are in the same position as if there had been no judgment.'<sup>38</sup> Illustrative of this principle is

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lead to some absurdity or inconsistency with the rest of the document.' In para. 118, the PTC noted that the UN-RGC Agreement, Establishment Law, and Internal Rules do not afford protection against double jeopardy nor address the effects of a previous conviction on the proceedings before the ECCC, finding that '[i]n accordance with Article 12 of the Agreement and Article 33 new of the ECCC Law, the Pre-Trial Chamber examines the CPC [...]'. The PTC proceeded to examine Cambodian procedure in paras 119 to 124, finding that the ordinary sense of Article 12 of the Cambodian Code of Criminal Procedure does not apply to convictions. The PTC resorted to seeking guidance in the procedural rules at the international level.

<sup>35</sup> Republic of Korea, Criminal Procedure Act, Act No. 9765, 9 June 2009, Article 327(2).

<sup>36</sup> Libya Code of Criminal Procedure and supplementary laws, 28 November 1953, Articles 304 and 309.

<sup>37</sup> Despite the Defence's due diligence and best efforts to locate jurisprudence from civil law jurisdictions on the consequences of illegal decisions, the Defence was unable to locate, from the resources available to it, references in court decisions explaining the legal consequences of illegally issued orders.

<sup>38</sup> *Romito v. Maxwell*, 227 N.E.2d, 223, 224 (Ohio 1967): 'The effect of determining that a judgment is void is well established. It is as though such proceedings had never occurred; the judgment is a mere nullity and the parties are in the same position as if there had been no judgment (internal citations omitted). The vacation of the prior burglary sentence in the instant case was an integral part of the habitual criminal proceedings, and when such habitual criminal proceedings were declared void the vacation of the burglary sentence was also voided. The petitioner was in the same position that he was prior to the habitual criminal proceedings, under a valid sentence for burglary.' See also *State v. Bezak*, 868 N.E.2d 961, 963 (Ohio 2007) quoting *Romito v. Maxwell*: 'Here, Bezak was not informed about the imposition of post release control at his sentencing hearing. As a result, the sentence imposed by the trial court is void. "The effect of determining that a judgment is void is well established. It is as though such proceedings had never occurred; the judgment is a mere nullity and the parties

the Texas Court of Criminal Appeals ruling in *Ex parte Seidel* wherein the trial judge's dismissal 'with prejudice' was considered 'more than a variance from the normal conduct; that action was outside the parameters of any rule or procedure in place at that time.'<sup>39</sup> The Court concluded that 'the trial judge's action was more than a mere violation of statutory procedure' and that '[t]he trial judge's action was not authorized by law and was, therefore, void.'<sup>40</sup> The Court held:

[A] void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights.<sup>41</sup>

22. In *State v. Simpkins*, the Supreme Court of Ohio distinguished between a *voidable* judicial action that is based on an error of law and a wholly unlawful judicial action that is necessarily *void*:

[I]n circumstances in which the judge disregards what the law clearly commands, such as when a judge fails to impose a nondiscretionary sanction required by a sentencing statute, the judge acts without authority. Such actions are not mere errors that render a sentence voidable rather than void. If a judge imposes a sentence that is unauthorized by law, the sentence is unlawful. "If an act is unlawful it not erroneous or voidable, but it is wholly unauthorized and void."<sup>42</sup>

23. The Supreme Court of the United Kingdom recently upheld the same principle in *R v. Miller* in the context of unlawful advice given by the Prime Minister to Her Majesty the Queen that parliament should be prorogued:

This means that it was null and of no effect [...] It led to the Order in Council which, being founded on unlawful advice, was likewise unlawful, null and of no effect and should be quashed. This led to the actual prorogation, which was as if the Commissioners had walked into Parliament with a blank piece of paper. It too was unlawful, null and of no effect.<sup>43</sup>

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are in the same position as if there had been no judgment.'" See also *Ex parte Seidel*, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001).

<sup>39</sup> *Ex parte Seidel*, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001).

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*, quoting *Ex parte Spaulding*, 687 S.W.2d 741, 745 (Teague, J., concurring).

<sup>42</sup> *State v. Simpkins*, 884 N.E. 2d 568, 575 (Ohio 2008) (internal citations omitted).

<sup>43</sup> *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent) Cherry and others (Respondents) v Advocate General for Scotland (Appellant) (Scotland)*, [2019] UKSC 41, para. 69. See also *R (on the application of UNISON) (Appellant) v Lord Chancellor (Respondent)*, [2017] UKSC 51, para. 119: 'The Fees Order is unlawful under both domestic and EU law because it has the effect of preventing access to justice. Since it had that effect as soon as it was made, it was therefore unlawful ab initio, and must be quashed.'

24. The jurisprudence of international criminal tribunals has recognised that illegal orders or acts – i.e. those in contravention of the applicable law and procedure – are null and void and without legal effect. The ICTR Trial Chamber in *Ntuyahaga* found that the Registrar’s ‘Safe Conduct’ document that was delivered to the Defendant upon his release was ‘null and void’ since ‘neither the provisions of Security Council resolutions, nor those of the Statute, nor those of the Rules of Procedure and Evidence, nor any instructions rendered by the Trial Chamber, empower[ed] the Registrar to issue the document entitled ‘Safe Conduct.’<sup>44</sup> The Trial Chamber was ‘mindful of the need for the Tribunal to ensure the proper respect and compliance for the law.’<sup>45</sup>
25. The ICTY Appeals Chamber found in *Kupreškić et al.* that the Trial Chamber’s ruling to take depositions from Defence witnesses was ‘null and void’ for failure to comply with the requirements of the ICTY Statute and Rules of Procedure and Evidence.<sup>46</sup> The Presiding Judge of the Trial Chamber had informed the parties that one of the Trial Chamber Judges was ill and unlikely to attend hearings throughout the week.<sup>47</sup> He then made an oral ruling that Rule 71 of the ICTY Rules of Procedure and Evidence was applicable and depositions of Defence witnesses were taken with only two Judges present acting as Presiding Officers.<sup>48</sup> The Trial Chamber issued a written decision confirming the oral ruling the following day.<sup>49</sup> The Appeals Chamber found that the ‘requirement in Rule 71 that an order for depositions to be taken may only be rendered by a Trial Chamber, ha[d] not been met’ because Article 12 of the ICTY Statute stipulates that a Trial Chamber shall be composed of *three* Judges.<sup>50</sup> The Appeals Chamber considered that the Trial Chamber’s written confirmation of the oral ruling ‘could not *ipso facto* cure this illegality.’<sup>51</sup>

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<sup>44</sup> ICTR Trial Chamber, *Prosecutor v. Ntuyahaga* (ICTR-98-40-T), ‘Declaration on a Point of Law,’ 22 April 1999, paras 1, 4 and 17. The Registrar issued a document entitled ‘Safe Conduct’ requesting UN Member States, international organizations, and others concerned to accord the Defendant necessary cooperation to enable him to ‘move freely in or transit through, without let or hindrance, any country to his final destination.’ The Defence endeavored to request an original version of this decision but it is currently under legal review by the ICTR (MICT) to determine its legal classification and is not publicly available.

<sup>45</sup> *Ibid.*, para. 17.

<sup>46</sup> ICTY Appeals Chamber, *Prosecutor v. Kupreškić et al.* (IT-95-16-AR73.3), ‘Decision on Appeal by Dragan Papić against Ruling to Proceed by Deposition,’ 15 July 1999, para. 14.

<sup>47</sup> *Ibid.*, para. 4.

<sup>48</sup> *Ibid.*, paras 6 and 7.

<sup>49</sup> *Ibid.*, para. 7.

<sup>50</sup> *Ibid.*, para. 14.

<sup>51</sup> *Ibid.*, para. 14: ‘Where the Statute or the Rules prescribe that a matter is to be decided by a *Trial Chamber*, two sitting Judges may not do so on the part of the Trial Chamber, save in the case where the Trial Chamber has

26. A correct interpretation of Rule 67(2), that is, taking into account its place in the ECCC legal framework – including the context of the annulment procedure in Rule 76 – and the main underlying principles and objectives for pre-trial annulments, mandates that the effect of the PTC’s unanimous finding in Case 004/02 is that both Closing Orders are null and void. This is further supported by Cambodian and French criminal procedure and the concept of ‘nullity’ found in other domestic and international jurisdictions. The PTC’s unanimous finding was, in all but name, a finding of procedural defect,<sup>52</sup> which carries the same procedural consequences set out in Rule 76(5) of ‘annulment’ or ‘cancellation’.<sup>53</sup> The procedurally defective Closing Orders must be removed from the Case File and accorded no legal effect.<sup>54</sup>

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received prior authorisation by the President. Such authorisation may, however, only be given in respect of routine matters pursuant to Sub-rule 15(E). In the present case, no such authorisation had been given by the President, and, in any event, the making of a decision to proceed by way of deposition with regard to the examination of witnesses giving evidence on facts relating to the specific charges made against an accused, thereby having a direct bearing on the determination of the guilt or innocence of the accused, does not, in the view of the Appeals Chamber, constitute “routine matters” within the meaning of Sub-rule 15(E)’ (italic emphasis in original).

<sup>52</sup> Rule 76(5) provides that defective investigative actions are ‘cancelled’ and the relevant document should be ‘removed from the case file and archived by the Greffier of the [PTC]. After any such annulment or cancellation, the [PTC] shall return the case file to the Co-Investigating Judges.’ It bears repeating that even the CIJs understood that the issuance of separate and conflicting Closing Orders was unlawful and they were fully aware that the lawfulness of issuing split Closing Orders would not survive the scrutiny of the PTC on appeal. Case 004/02 Considerations, para. 123: The PTC noted the CIJs’ ‘explicit declaration [...] that they agreed on the unlawful issuance of separate and conflicting Closing Orders.’ The PTC found unanimously that the CIJs’ ‘malpractice has in this case jeopardized the whole legal system upheld by the Royal Government of Cambodia and the United Nations. It is astonishing to observe that the Judges were fully “aware of the problem” that the issuance of split Closing Orders would cause, notably on appeal [...]’.

<sup>53</sup> As the PTC unanimously found, there has never ‘been any case in history of any national or international system that closed with the simultaneous issuance of two contradictory decisions emanating from one single judicial office.’ Case 004/02 PTC Considerations, para. 124. It necessarily follows that neither Cambodian criminal procedure nor procedural rules established at the international level address the procedural consequences of illegally issued opposing Closing Orders. Yet Rules 2 and 21 provide interpretive guidance here: the applicable criminal procedural laws must be interpreted so as to always safeguard the Charged Person’s interests. See UN-RGC Agreement, Article 12(1); Establishment Law, Article 33*new*; Rules 2, 21. The only way of protecting Mr YIM Tith’s interests is to fill the *lacuna* in the Internal Rules is to apply existing provisions by analogy. “[I]f the existence of gaps is admitted, the task of court is to fill them by using statutory provisions which regulate essentially similar problems or case” [...]. “[S]ometimes a statute will purport to treat a topic exhaustively but an ‘unproven case’ will arise. Here the court may treat this case analogously to the way in which ‘provided’ case is treated in the same statute.” Koszowski M., ‘Analogical Reasoning in Statutory Law’ (2017) *Journal Forensic Research* (8) 1, p. 2 quoting Wróblewski J., ‘Statutory Interpretation in Poland,’ in *Interpreting Statutes: A Comparative Study*, Ashgate/Dartmouth, Aldershot, 1991, pp. 257 to 309 and Summers, R., ‘Statutory Interpretation in the United States’ in *Interpreting Statutes: A Comparative Study*, Ashgate/Dartmouth, Aldershot, 1991, pp. 407 to 459. See also Koszowski M., ‘The Scope of Application of Analogical Reasoning in Statutory Law’ (2017), *American International Journal of Contemporary Research* (7) 16, pp. 17 and 19: ‘[A] legal gap occurs whenever there is no statutory rule that can be applied to the case at hand, although it is socially desirable to have such a rule and the case at hand being provided for [...]. The filling of such gaps by resorting to analogical reasoning consists in principle in finding a statutory rule that embraces cases that are similar to the case at hand and then – although this case does not fall under its coverage – applying the so-selected rule to the case at hand [...]. The filling of *extra legem* gaps by analogy also has its foundation in

### III. APPEALS ON THE MERITS OF THE CLOSING ORDERS ARE NOW IRRELEVANT TO THE CURRENT PROCEEDINGS

27. Since the Closing Orders are null and void (non-existent and with no legal effect), any appellate argument on the merits has become irrelevant to the current proceedings.
28. The six grounds of appeal argued in the ICP's Appeal are concerned uniquely with the merits of the NCIJ's Closing Order.<sup>55</sup> The ICP submitted that the NCIJ 'committed several legal and factual errors' in his assessment of personal jurisdiction, which include:
- (i) finding that *ex ante* and as a matter of law the category of "those who were most responsible" could only refer to Duch; (ii) refusing to make any legal characterisations with regard to crimes and modes of liability based on the facts with which the CIJs were seised in the Introductory and Supplementary Submissions and thereby failing to render a reasoned decision; (iii) erroneously considering and analysing superior orders and duress in the assessment of personal jurisdiction; (iv) according excessive weight to "direct participation" in crimes while ignoring more relevant modes of liability; (v) making findings that have no basis in fact and/or are clearly contradicted by the evidence; and (vi) giving weight to factors of marginal relevance when assessing jurisdiction.<sup>56</sup>
29. The ICP entered no submissions on the legality of the issuance of two Closing Orders.<sup>57</sup> While the ICP made submissions on *the consequences* of two separate and conflicting Closing Orders, she did not address the preceding question of whether this

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the pursuit – in legal practice and theory –of the coherence and completeness [closure] of the legal system' (internal citations omitted). See also A. Peczenik, 'Analogia Legis. Analogy from Statutes in Continental Law,' in Hubien, H. [Ed] *Legal Reasoning. Proceedings of the World Congress for Legal and Social Philosophy* 329, Brussels 1971, p. 332 citing French Code of Criminal Procedure, Article 4: '[A]nalogia is a rhetorical argument [...] connected with the following Principle of Justice: essentially similar objects ought to be treated in a similar way. Rhetorical arguments are indispensable in legal thinking among others because the judge is bound to decide a case even if the law is unclear (e.g. Code Napoléon, § 4, prohibition of *denegatio justitae*). Imre Zajte describes the process of analogical statutory reasoning as follows: '[T]he first category of reasoning by analogy takes for its starting point a rule laid down by a written law or statute. The process consists in, firstly, a search for what constitutes the very essence of this rule, and to that end the rule is stripped of all its secondary elements: the rule, thus reduced to its essential components, will thereafter be applied in a case which differs from the hypothesis provided by the statute only, and precisely, in respect of its secondary elements.' Zajtay, I., 'Reasoning by analogy as a method of law interpretation' (1980) *The Comparative and International Journal of Southern Africa* (13) 324, p. 326.

<sup>54</sup> See *Decision on YIM Tith's Application to Annul the Investigative Material Produced by Paolo Stocchi*, 25 August 2017, D351/1/4, para. 36 and p. 17.

<sup>55</sup> ICP's Appeal, paras 20 to 163.

<sup>56</sup> *Ibid.*, para. 19.

<sup>57</sup> *Ibid.*, para. 19.

was in the first place lawful.<sup>58</sup> The ICP's Appeal proceeds from the erroneous presumption that the CIJs were permitted to issue separate Closing Orders. The ICP presumed that the central question of procedure for the PTC would be how to continue the proceedings in the face of conflicting views from the National and International Judges and in the absence of a supermajority under Article 7(4) of the UN-RGC Agreement.<sup>59</sup> The ICP put forward her views as to 'what must be done should the Pre-Trial Chamber be unable to resolve the difference between the CIJs'<sup>60</sup> without addressing the scenario of PTC unanimity.

30. There is no further legal argument to be had in response to the ICP's Appeal<sup>61</sup> and the appeal is rendered moot, in the sense of having 'no practical significance.'<sup>62</sup> ECCC judges have recognised situations where a decision or filing is rendered 'moot' since there is no longer any live issue for the court to determine.<sup>63</sup> For instance, the PTC

<sup>58</sup> *Ibid.*, paras 164 to 175.

<sup>59</sup> *Ibid.*, para. 174.

<sup>60</sup> *Ibid.*, para. 174.

<sup>61</sup> For the same reasons, the appellate arguments on the merits submitted by the Co-Lawyers for the Civil Parties are made irrelevant to the current proceedings. The Defence's non-response to the *Civil Party Co-Lawyers' Appeal against the National Co-Investigating Judge's Closing Order in Case 004* should not be taken as tacit acceptance of the arguments therein.

<sup>62</sup> Garner, B., [Ed.] *Black's Law Dictionary*, 9th edition, p. 1099.

<sup>63</sup> See *Decision on the International Co-Prosecutor's Appeal of Decision on Request for Investigative Action Regarding Sexual Violence at Prison No. 8 and in Bakan District*, 13 February 2018, D365/3/1/5, paras 30 to 32. See also *Notice from the International Co-Investigating Judge to the Parties Regarding Re-Issue of Decisions Taken by Judge Harmon on or After 31 July 2015*, 8 September 2015, D262, paras 2 to 4. ICIJ Bohlander found that decisions issued by ICIJ Harmon after his term of office ended were without legal effect, since Harmon was *functus officio* at the time of their issuance. ICIJ Bohlander informed the parties that '[a]ny decisions that may have been appealed will become moot' as soon as he re-issued a new version. Case 003, *Decision on MEAS Muth's Appeal against Co-Investigating Judge Harmon's Notification of Charges against MEAS Muth*, 3 February 2016, D128.1/1/11, paras 6 to 8. ICIJ Bohlander rescinded charges brought in ICIJ Harmon's Decision to Charge *In Absentia* and informed MEAS Muth that 'the statement of charges considered in that Decision was therefore moot.' When MEAS Muth filed a new appeal against ICIJ Bohlander's charges, the PTC found his appeal against ICIJ Harmon's charges was 'therefore moot, and should be dismissed as such, without determining its admissibility on the merits.' *Further Decision on the Urgent Request on Remote Working*, 29 August 2016, D321/4, paras 2 and 5 to 7. The ICIJ declared moot AO An's *Urgent Request for Remote Working* in light of the Defence Support Section proposal of new terms of reference for legal consultants. Case 004/01, *Order on IM Chaem's Urgent Application to Seize the Pre-Trial Chamber with a Request for Annulment of Her and Her Co-Lawyers' Summonses*, 18 August 2014, D207/1, paras 35 and 38. The ICIJ declared moot IM Chaem's request for a stay of the Suspect's and the Co-Lawyers' summonses in light of her failure to appear at her scheduled initial appearance, her Co-Lawyer's notice that she would not appear voluntarily at the ECCC, and the PTC's denial of her request for a stay. Case 004/02, *Decision on AO An's Request for Clarification*, 5 September 2017, D369, paras 11, 20, 38, and 39. The ICIJ declared moot AO An's requests for clarification as to whether the Co-Prosecutors would file separate Final Submissions and the effect that disagreement between the Co-Prosecutors may have on the timing of the Final Submission, given that both Co-Prosecutors had already filed their Final Submissions. In addition, international criminal tribunals have declared filings and decisions 'moot' where there is no longer any dispute for the court to determine. MICT Appeals Chamber, *Prosecutor v. Karadžić* (MICT-13-55-A), 'Order on Motion to Disqualify Judge Theodor Meron,' 2 October 2018, p. 2. Judge Meron decided to withdraw from the appeal in *Karadžić*, rendering the Defence motion to disqualify him moot. MICT Trial Chamber, *Prosecutor v. Nikolić* (MICT-14-65-ES), 'Public Redacted Version of the 27 January

found in its *Decision on the International Co-Prosecutor's Appeal of Decision on Request for Investigative Action Regarding Sexual Violence at Prison No. 8 and in Bakan District* that an ICP request for investigative action was moot since no forwarding order had been issued and it would be speculative to consider whether the CIJs 'made a different interpretation' of Rule 66(4).<sup>64</sup>

31. The resolution of the moot ICP's Appeal has no consequence and is therefore subject to summary dismissal.<sup>65</sup>

## CONCLUSION

32. After more than 13 years of pre-trial proceedings, Mr YIM Tith's case has now entered a Kafkaesque situation wherein the parties' appeals are to be heard by a Chamber that unanimously considers the impugned orders to lack any procedural basis in law. Just as there has never been, as the PTC noted, 'any criminal case in the history of any national or international legal system that closed with the simultaneous issuance of two contrary decisions emanating from one single judicial office,'<sup>66</sup> neither has there ever been a criminal trial on the basis of an unlawful, null and void indictment.
33. The PTC has already pronounced on the unlawfulness of issuing two Closing Orders, so the outcome of the Defence *Appeal of the Issuance of Two Closing Orders* is foregone and inevitable. The only *legal* solution available to the PTC judges at this juncture is to resort to one of the remedies requested in the *Appeal of the Issuance of Two Closing Orders*, namely: dismiss the defective Closing Orders with full prejudice;<sup>67</sup> dismiss the defective Closing Orders and return the Case File to the CIJs;<sup>68</sup>

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2017 Decision on Ratko Mladić's Requests for Leave to Reply and Reconsideration or, Alternatively, Certification or Disqualification,' 6 June 2018, para. 28, fn. 52 ('In view of the fact that I am granting Mladić's request for reconsideration in part, I hereby dismiss as moot Mladić's alternative requests for certification to appeal the Decision for Access or for my disqualification').

<sup>64</sup> *Decision on the International Co-Prosecutor's Appeal of Decision on Request for Investigative Action Regarding Sexual Violence at Prison No. 8 and in Bakan District*, 13 February 2018, D365/3/1/5, paras 30 to 32.

<sup>65</sup> In Case 004/02, the PTC declared itself unable to reach a supermajority under Article 7(4) of the ECCC Agreement only in relation to 'the lack of an affirmative vote of at least four judges for a decision based on common reasoning *on the merits*.' Case 004/02 Considerations, para. 169.

<sup>66</sup> Case 004/02 Considerations, para. 124.

<sup>67</sup> Constitution of Cambodia, Article 38; Establishment Law, Article 35<sup>new</sup>; Rule 21(1)(d); ICCPR, Article 14(2).

<sup>68</sup> Rule 76(5); Constitution of Cambodia, Articles 31 and 38; Cambodian Code of Criminal Procedure, Article 351; Establishment Law, Article 35<sup>new</sup>; Rule 21(1)(d); ICCPR, Article 14(2). See also Case 004/01, *Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons)*, 28 June 2018, D308/3/1/20, para. 22.

or dismiss the defective Closing Orders, assess Case File 004 itself and issue its own Closing Order.<sup>69</sup> To do otherwise, proceeding on the basis of an unlawfully-issued indictment, would irreparably violate Mr YIM Tith's fundamental rights to a fair trial. The PTC must address the *ultra vires* actions of the CIJs with one of these remedies.

34. The Defence recalls that the PTC's overarching responsibility is to ensure fairness in pre-trial proceedings, the most basic aspect of which is to fulfil the PTC's inherent obligation to ensure ECCC proceedings are lawful rather than arbitrary.<sup>70</sup> Since Rule 76(7) mandates that the validity of the procedure in the judicial investigation cannot be raised before the Trial Chamber or Supreme Court Chamber, the PTC is the last port of call for correcting the CIJs' unlawful procedural action: it is the PTC that must now act definitively in accordance with its unanimous view.

### REMEDY

**WHEREFORE**, for all the reasons stated herein, the Defence respectfully requests that, in the exercise of their discretion and in the interests of justice, the Pre-Trial Chamber:

- (1) **Dismiss** the ICP's Appeal; and
- (2) **Dismiss** the defective Closing Orders with full prejudice and dismiss the case against Mr YIM Tith; *or*
- (3) **Dismiss** the defective Closing Orders and return the Case File to the CIJs with an order to jointly issue a Closing Order in accordance with the applicable law, noting that any persisting disagreement must be resolved in favour of Mr YIM Tith; *or*

<sup>69</sup> Rule 79(1); Constitution of Cambodia, Article 38; Cambodian Code of Criminal Procedure, Article 351; Establishment Law, Article 35*new*; Rule 21(1)(d); ICCPR, Article 14(2). See also Case 004/01, *Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons)*, 28 June 2018, D308/3/1/20, para. 22. Case 001, *Decision on Appeal against Closing Order Indicting Kaing Guek Eav, alias "DUCH"*, 5 December 2008, D99/3/42, para. 40. See also Case 004/01, *Considerations on the International Co-Prosecutor's Appeal of Closing Order (Reasons)*, 28 June 2018, D308/3/1/20, para. 22. The PTC 'fulfils the role of the Cambodian Investigation Chamber in the ECCC,' and, when seised by appeals against Closings Orders, 'Internal Rule 79(1) suggests that [it] has the power to issue a new or revised Closing Order that will serve as a basis for trial.'

<sup>70</sup> Case 004/02, *Decision on Ao An's Urgent Request for Redaction and Interim Measures*, 5 September 2018, D360/3, para. 6: the PTC found 'it appropriate to exercise its inherent jurisdiction as the appellate body at the pre-trial stage and in the absence of specific disposition [...] in the interests of justice.'



- (4) **Dismiss** the defective Closing Orders, assess Case File 004 itself and issue its own Closing Order either indicting Mr YIM Tith or dismissing the case against him.

Respectfully submitted,

  
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SO Mosseny

  
\_\_\_\_\_  
Suzana TOMANOVIĆ



Co-Lawyers for Mr YIM Tith

Signed in Phnom Penh, Kingdom of Cambodia on this 20<sup>th</sup> day of February 2020.