

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

**FILING DETAILS**

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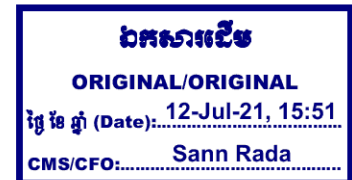
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**NATIONAL CO-PROSECUTOR'S RESPONSE TO INTERNATIONAL CO-PROSECUTOR'S REQUEST FOR THE CONCLUSION OF THE PRE-TRIAL STAGE OF THE PROCEEDINGS IN CASE 003**

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**Distributed to:**  
**Pre-Trial Chamber**  
Judge PRAK Kimsan, President  
Judge NEY Thol  
Judge HUOT Vuthy  
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**All Civil Party Lawyers  
in Case 003**

## I. INTRODUCTION

1. On 21 June 2021, the International Co-Prosecutor filed a request to the Pre-Trial Chamber asking them to conclude the pre-trial stage of the proceedings in Case 003<sup>1</sup>, requesting it to:
  - a. conclude the pre-trial stage of Case 003 by providing an agreed final determination confirming that Meas Muth is indicted and ordering him to be sent for trial; and
  - b. take all necessary administrative actions to immediately forward the Considerations, the Case 003 Indictment and remaining Case File to the Trial Chamber.
2. The National Co-Prosecutor hereby respectfully responds to the International Co-Prosecutor's request for the conclusion of the pre-trial stage of the proceedings in Case 003.

## II. PROCEDURAL HISTORY

3. On 7 April 2021, the Pre-Trial Chamber issued its Considerations on Appeals Against Closing Orders,<sup>2</sup> in which it unanimously found that the issuance of two conflicting Closing Orders was illegal, violating the ECCC's legal framework and declared that the Pre-Trial Chamber had not attained the required majority of four affirmative votes to reach a decision based on common reasoning on the merits. The decision is not subject to appeal.
4. Since the Pre-Trial Chamber could not attain the required majority of four affirmative votes to reach a decision on the merits, the **National Judges** of the Pre-Trial Chamber decided that the case against the charged person Meas Muth should be held at the ECCC archives.
5. Since the Pre-Trial Chamber could not attain the required majority of four affirmative votes to reach a decision on the merits, the **International Judges** of the Pre-Trial Chamber found that the Trial Chamber must be seised of Case 003 on the basis of the Indictment pursuant to Internal Rule 77(13).
6. On 19 April 2021, the International Co-Prosecutor requested the Co-Investigating Judges to forward the Case File 003 to the Trial Chamber.<sup>3</sup>

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<sup>1</sup> **D271/1** International Co-Prosecutor's Request for Conclusion of the Pre-Trial Stage of the Case 003 Proceedings.

<sup>2</sup> **D266/27** Pre-Trial Chamber's Considerations on Appeals Against Closing Orders.

<sup>3</sup> **D270** International Co-Prosecutor's Request to the Co-Investigating Judges to Forward Case File 003 to the

7. On 20 May 2021, the Co-Investigating Judges issued their decision rejecting the International Co-Prosecutor's Request to Forward Case 003 to the Trial Chamber.<sup>4</sup>
8. On 19 May 2021, the International Co-Prosecutor has immediately notified the Co-Investigating Judges of her intention to file a reply on the issue of forwarding Case File 003 to the Trial Chamber.<sup>5</sup>
9. On 20 May 2021, the Co-Investigating Judges rejected the International Co-Prosecutor's Request to file a reply.<sup>6</sup>
10. On 25 June 2021, Meas Muth's Co-lawyers filed a request for an extension of time to respond to the International Co-Prosecutor's request for the conclusion of the pre-trial stage of the proceedings in Case 003<sup>7</sup>.
11. On 29 June 2021, the Pre-Trial Chamber sent an e-mail notification to parties in Case 003 that they may submit their responses to the International Co-Prosecutor's request by 12 July 2021 close of business.

### III. SUBMISSIONS

12. According to the decision of the **National Judges** of the Pre-Trial Chamber that the Case File 003 against the charged person Meas Muth should be held at the ECCC archives.
13. On 17 June 2021, Co-Lawyers for Meas Muth filed a request in English only to the Pre-Trial Chamber to terminate, seal, and archive the Case File 003.<sup>8</sup>
14. Given that Case 003 is similar to Case file 004/2, especially the Considerations on Appeals Against Closing Orders, which unanimously found that "the issuance of two conflicting Closing Orders by the Co-Investigating Judges was illegal, violating the ECCC's legal framework and the Pre-Trial Chamber had not attained the required majority of four affirmative votes to reach a decision."

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Trial Chamber.

<sup>4</sup> **D270/7** Decision on International Co-Prosecutor's Request to Forward Case 003 to the Trial Chamber.

<sup>5</sup> **D270/5** International Co-Prosecutor's Urgent Notice of Her Intent to File a Reply on the Issue of Forwarding Case File 003 to the Trial Chamber.

<sup>6</sup> **D270/6** Decision on International Co-Prosecutor's Request to File a Reply.


<sup>7</sup> **D272** Meas Muth's request for an extension of time to respond to the International Co-prosecutor's request for conclusion of the pre-trial stage of the case 003 proceedings.

<sup>8</sup> **D272** Meas Muth's Request to Terminate, Seal, and Archive Case File 003.

15. In Case 004/2 where AO An was the charged person, the Pre-Trial Chamber, in its decision, did not order its greffier to forward the Case file.
16. According to previous Co-Investigating Judges' decisions, a Case 004/2 jurisprudence where Ao An stands as the charged person, they decided to seal and archive Case File 004/2.<sup>9</sup>
17. According to a 3 April 2020 statement of the Trial Chambers' Judges regarding Case 004/2 involving Ao An, it clearly indicated that there will be no trial of Case File 004/2 now or in the future.
18. The National Co-Prosecutor therefore disagrees with the International Co-Prosecutor's request for the conclusion of the pre-trial stage of the proceedings in Case 003 and the transfer of the case file to the Trial Chamber.
19. The National Co-Prosecutor respectfully requests that the Pre-Trial Chamber applies Rule 69(2)(b), which stated: "If a Dismissal Order is issued, the case file shall be archived after the expiry of the time limit for appeal."

#### IV. RELIEF REQUESTED

20. For the foregoing reasons, the National Co-Prosecutor respectfully requests the Pre-Trial Chamber to:
- a. terminate the proceedings of Case File 003;
  - b. seal Case File 003; and
  - c. decide to archive Case File 003 in the ECCC archive.

Date	Name	Place	Signature
12 July 2021	<b>CHEA Leang</b> National Co-Prosecutor	Phnom Penh	

<sup>9</sup> **D363/3** Co-Investigating Judges' Order Sealing and Archiving Case File 004/2.