

**BEFORE THE OFFICE OF THE CO-INVESTIGATING JUDGES
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

FILING DETAILS

Case No: 004/07-09-2009-ECCC/OCIJ

Party Filing: The Defence for YIM Tith

Filed to: Office of the Co-Investigating Judges

Original language: ENGLISH

Date of document: 18 October 2021

CLASSIFICATION

**Classification of the document
suggested by the filing party:**

CONFIDENTIAL

**Classification by OCIJ
or Chamber:**

សាធារណៈ/Public



Classification Status:

Review of Interim Classification:

Records Officer Name:

Signature:

**YIM TITH'S REQUEST TO THE CO-INVESTIGATING JUDGES TO IMMEDIATELY
TERMINATE, SEAL AND ARCHIVE CASE 004**

TABLE OF AUTHORITIES

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CAMBODIAN LAW**Core Legal Documents**

ECCC Legal Compendium – not included

1. Constitution of the Kingdom of Cambodia 1993, Article 31.
2. Code of Criminal Procedure of The Kingdom of Cambodia, Article 3.

ECCC LAW**Core Legal Documents**

ECCC Legal Compendium – not included

3. 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, 6 June 2003, Articles 12, 13.
4. 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), Articles 33^{new}, 35^{new}.
5. Extraordinary Chambers in the Courts of Cambodia, Internal Rules (Rev. 9) as revised 16 January 2015, Rules 1, 21, 67, 69, 77, 79, 80

Jurisprudence

ECCC Legal Files – not included

Case 004

6. *YIM Tith's Appeal of the Issuance of Two Closing Orders in Case 004*, 2 December 2019, D381/18 and D382/21.
7. *YIM Tith's Appeal of the International Co-Investigating Judge's Closing Order in Case 004*, 2 December 2019, D382/22.
8. *Considerations on Appeals Against Closing Orders*, 17 September 2021, D381/45 and D382/43.
9. *Decision on International Co-Prosecutor's request for extension of time to file her submission concerning the pre-trial chamber's closing order considerations in case 004*, 4 October 2021, Doc. No. 2/2.

Case 004/01

10. *International Co-Prosecutor's Rule 66 Final Submission against IM Chaem*, 27 October 2016, D304/2.

Case 004/02

11. *Request for Submissions on the Budgetary Situation of the ECCC and its Impact on Cases 003, 004, and 004/2*, 5 May 2017, D349.
12. *Combined Decision on the Impact of the Budgetary Situation of the ECCC on Cases 003, 004, and 004/2 and Related Submissions by the Defence for YIM Tith*, 5 May 2017, D349/6.
13. *Considerations on Appeals Against Closing Orders*, 19 December 2019, D359/24 & D360/33.

14. *Pre-Trial Chamber Memorandum entitled 'Clarification of the decision in the case 004/2,'* 29 January 2020, D359/34.
15. *Pre-Trial Chamber Memorandum entitled 'Notification of the PTC's Considerations in Case 004/2,'* 29 January 2020, D359/35.
16. *International Co-Prosecutor's Request for All Required Administrative Actions to be Taken to Forward Case File 004/2 (AO An) to the Trial Chamber,* 4 February 2020, D359/25.
17. *International Co-Prosecutor's Request that the Trial Chamber Take Action to Obtain Access to the Case 004/2 (AO An) Indictment and Case File,* 4 February 2020, D363/1.1.8.
18. *Request for Confirmation that All Required Administrative Actions Have Been Taken to Archive Case 004/2,* 24 February 2020, D359/27.
19. *Pre-Trial Chamber Memorandum entitled 'Transfer of Case File 004/2,'* 12 March 2020, D359/36.
20. *Pre-Trial Chamber Memorandum entitled 'Re-Confirmation of the Decision on Case File 004/2,'* 16 March 2020, D359/37.
21. *International Co-Prosecutor's Immediate Appeal of the Trial Chamber's Effective Termination of Case 004/2,* 4 May 2020, E004/2/1.
22. *Response to International Co-Prosecutor's Immediate Appeal of the Trial Chamber's Effective Termination of Case 004/2,* 14 May 2020, E004/2/1/1.
23. *YIM Tith's Request for Leave to Intervene in Case 004/02 on the Jurisdiction of the Supreme Court Chamber,* 3 June 2020, E004/2/3.
24. *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.
25. *Order Sealing and Archiving Case File 004/2,* 14 August 2020, D363/3.

Case 002

26. *Decision on Co-Prosecutor's Request for Clarification*, 26 June 2013, E286/2/1/2.
27. *Decision on Immediate Appeals against Trial Chamber's Second Decision on Severance of Case 002*, 25 November 2013, E284/4/8.
28. *Decision on KHIEU Samphan's Urgent Appeal against the Summary of Judgment Pronounced on 16 November 2018*, 13 February 2019, E463/1/3.

Case 003

29. *MEAS Muth's Request for Leave to Intervene and Respond to the International Co-Prosecutor's Immediate Appeal of the Trial Chamber's Effective Termination of Case 004/2*, 29 May 2020, E004/2/2.
30. *Considerations on Appeals Against Closing Orders*, 7 April 2021, D266/27 & D267/35.
31. *International Co-Prosecutor's Request to the Co-Investigating Judges to Forward Case File 003 to the Trial Chamber*, 19 April 2021, D270.
32. *Decision on International Co-Prosecutor's Request to Forward Case File 003 to the Trial Chamber*, 20 May 2021, D270/7.
33. *International Co-Prosecutor's Request for Conclusion of the Pre-Trial Stage of the Case 003 Proceedings*, 21 June 2021, D271/1.
34. *MEAS Muth's Request to Terminate, Seal, and Archive Case 003*, 22 June 2021, D272.
35. *Consolidated Decision on the Requests of the International Co-Prosecutor and the Co-Lawyers for MEAS Muth Concerning the Proceedings in Case 003*, 8 September 2021, D271/5 and D272/3.
36. *International Co-Prosecutor's Response to the Co-Investigating Judges' Request to Declare Whether She Intends to Seize the Supreme Court Chamber*, 16 September 2021, D273/1.

37. *Order to File Submissions on Residual Jurisdiction to Terminate Case 003*, 16 September 2021, D273.

ECCC Press Statements

Published on ECCC Website – not included

38. *Press Release by the International Co-Prosecutor regarding Case 004/2*, 24 December 2019.
39. *Press Release by the National Co-Prosecutor regarding Case 004/2*, 24 December 2019.
40. *Press Release by the Judges of the Trial Chamber of the ECCC regarding Case 004/2 involving AO An*, 3 April 2020.
41. *Press Release by the Co-Investigating Judges regarding the Re-instatement of the Co-Investigating Judge*, 24 April 2020.

Internal Communication

42. Email from the International Co-Prosecutor, ‘ICP Request for Extension of Time to File Submissions in Case 004,’ 23 September 2021. – ***Attachment 1***
43. Email from the Defence, ‘RE: ICP Request for Extension of Time to File Submissions in Case 004,’ 23 September 2021. – ***Attachment 2***
44. Email from the Interpretation and Translation Unit to Defence, ‘Translation of Motion’, 18 October 2021. – ***Attachment 3***

INTERNATIONAL LAW

Treaties

45. International Covenant on Civil and Political Rights, Articles 14 and 15, Article 14(3) – *ECCC Legal Compendium, not attached.*
46. European Convention on Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, Article 6, D382/22.1.
47. American Convention on Human Rights, ‘Pact of San Jose,’ Costa Rica, ETS 5, 22 November 1969, Article 8, D382/22.1.2.
48. African Charter on Human and Peoples’ Rights, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), Article 7, D382/22.3.

International Criminal Court

49. Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90 (‘Rome Statute’), Article 67. – *ECCC Legal Compendium, not attached.*

International Criminal Tribunal for the former Yugoslavia

50. Statute of the International Criminal Tribunal for the former Yugoslavia, 25 May 1993, as updated, Articles 20, 21. – *ECCC Legal Compendium, not attached.*

International Criminal Tribunal for the former Yugoslavia

51. Statute of the International Criminal Tribunal for Rwanda, 8 November 1994, as amended, Articles 19, 20. – *ECCC Legal Compendium, not attached.*

Special Court for Sierra Leone

52. Statute of the Special Court for Sierra Leone, 16 January 2002, Article 17. – *ECCC Legal Compendium, not attached.*

Special Tribunal for Lebanon

53. Statute of the Special Tribunal for Lebanon, 10 June 2007, Article 16. – *ECCC Legal Compendium, not attached.*

***Jurisprudence of the International Tribunals and
Supra-National Human Rights Bodies***

European Court of Human Rights

54. *Brumărescu v. Romania*, Application No. 28342/95, Judgment, 28 October 1999. *[Document exceeds 10 pages – extract provided]* – **Attachment 4**
55. *Frydlender v. France*, ECtHR Application No. 30979/96, Judgment, 27 June 2000. *[Document exceeds 10 pages – extract provided]* – **Attachment 5**
56. *Multiplex v. Croatia*, ECtHR Application No. 58112/00, 10 July 2003. *[Document exceeds 10 pages – extract provided]* – **Attachment 6**
57. *Ryabykh v. Russia*, Application No. 52854/99, Judgment, 24 July 2003. *[Document exceeds 10 pages – extract provided]* – **Attachment 7**
58. *Kehaya and Others v. Bulgaria*, Application Nos. 47797/99 and 68698/01, Judgment, 12 January 2006. *[Document exceeds 10 pages – extract provided]* – **Attachment 8**
59. *Marini v. Albania*, ECtHR, Application No. 3738/02, Judgment, 18 December 2007. *[Document exceeds 10 pages – extract provided]* – **Attachment 9**
60. *Ștefănică and Others v. Romania*, Application No. 38155/02, Judgment, 2 November 2010. *[Document exceeds 10 pages – extract provided]* – **Attachment 10**

International Criminal Court

61. *Prosecutor v. Lubanga*, Judgment on the Appeal of Mr Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute of 3 October 2006, 14 December 2006, ICC-01/04-01/06-772, D382/22.1.11.

International Criminal Tribunal for the former Yugoslavia

62. *Prosecutor v. Tadić* (IT-94-1-A), Judgement on Allegations of Contempt against Prior Counsel, Milan Vujin, 31 January 2000, D382/22.1.24.
63. *Prosecutor v. Bobetko* (IT-02-62-AR54bis), Decision on Challenge by Croatia to Decision and Orders of Confirming Judge, 29 November 2002, D382/22.1.36.
64. *Prosecutor v. Karadžić* (IT-95-5/18-AR-73-4), Decision on Karadžić's Appeal of Trial Chamber's Decision on Alleged Holbrooke Agreement, 12 October 2009, D382/22.1.25.
65. *Prosecutor v. Stanišić and Župljanin* (IT-08-91-A), Decision on Mićo Stanišić's Motion Requesting a Declaration of Mistrial and Stojan Župljanin's Motion to Vacate Trial Judgement, 2 April 2014, D382/22.1.11.20.

International Criminal Tribunal for Rwanda

66. *Barayagwiza v. The Prosecutor* (ICTR-97-19-AR72), Decision, 3 November 1999, D382/22.1.18.

NATIONAL LAW

Jurisprudence

67. *R v. Horseferry Road Magistrates' Court* [1994] 1 A.C. 42 H.L.(E) 74G, D382/22.1.11.86.