



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

**ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ**

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

4 May 2020

**PRESS RELEASE
FROM THE INTERNATIONAL CO-PROSECUTOR**

In accordance with Internal Rule 54 of the ECCC, Brenda J. Hollis issues this public statement setting forth the current status of the remaining cases before the ECCC.

In response to a recent press statement on the progress of the cases at the Court, I take this opportunity to provide an update on the Court’s continuing judicial activity. The remaining cases are the appeal to the Supreme Court Chamber of Khieu Samphan’s conviction and sentence in Case 002/2, and pre-trial submissions in the cases against Ao An (Case 004/2), Meas Muth (Case 003), and Yim Tith (Case 004) to determine whether these cases should go to trial or be dismissed.

The judicial process is ongoing in each of these cases. Khieu Samphan has appealed his convictions and sentence in Case 002/2 – the second trial against Khieu Samphan and Nuon Chea, in which they were both convicted of crimes against humanity, war crimes, and genocide in 2018. The Co-Prosecutors are currently preparing their response to that appeal. After all written submissions have been filed, the judges of the Supreme Court Chamber will decide if there is to be oral argument on the case before it deliberates on the appeals. Following Nuon Chea’s death in August 2019, the proceedings against him ceased and his convictions were maintained.

The three cases at the pre-trial stage are currently at different stages of the judicial process. The Pre-Trial Chamber reached its conclusion on the Ao An case on 19 December 2019. All five judges of the Pre-Trial Chamber agreed on the ECCC’s fundamental framework for disposition of cases where the Chamber fails to reach a supermajority decision. That is, where at least four of the five judges cannot agree on the disposition, the case shall proceed. The Pre-Trial Chamber judges did not reach a supermajority as to the disposition of this case, three judges determining the case should be dismissed and two judges determining Ao An’s case should go to trial. Despite the International Co-Prosecutor’s formal requests based on the Court’s fundamental legal framework, the Trial Chamber has not taken any official action on this case to date. In accord with her mandate, the International Co-Prosecutor has determined that the Trial Chamber’s inaction constitutes an effective termination of Case 004/2, which she is appealing to the Supreme Court Chamber, the highest judicial Chamber within the Court. That appeal will be filed on 4 May.

The cases of Meas Muth and Yim Tith are currently before the Pre-Trial Chamber. The Chamber heard oral argument in the Meas Muth case last November and is now deliberating on the disposition of that case. The parties have completed their submissions in the Yim Tith case and await a decision whether there will be oral argument before the Pre-Trial Chamber deliberates on the disposition of that case.

It is important to recall that the Government and Legislature of Cambodia and the United Nations established a legal framework to ensure that the ECCC act as an independent and impartial judicial institution, deciding cases before it based on that legal framework, the applicable law, and the facts of each case. For that reason, the judges and the prosecutors are mandated to act independently, based on their understanding of the Court's legal framework as well as the law and the facts of each case, free from outside influence. However well meaning, attempts by any entity outside the Court to alter the outcome or seek the termination of any case before the Court, by means other than the official judicial process, could be considered as prohibited external interference.

To date, the Court has fulfilled its obligation to act independently and impartially in regard to the ultimate judicial disposition of the case against Duch (Case 001) and the first case against Nuon Chea and Khieu Samphan (Case 002/1). It is expected that the Court will continue to maintain its judicial independence and decide the remaining cases through a fair, impartial, and transparent judicial process based solely on the legal framework of the Court, the applicable law, and the facts of each case. As the International Co-Prosecutor, I take it as my obligation to pursue all available actions to seek such a disposition of these cases.

**PRESS RELEASE
FROM THE NATIONAL CO-PROSECUTOR
REGARDING THE CHARGED PERSON AO AN IN CASE 004/02**

In accordance with Internal Rule 54 of the ECCC, the National Co-Prosecutor CHEA Leang would like to make the following public statements on the recent developments of Case 004/2 in which **AO An** is the Charged Person,

On 19 December 2019, the Pre-Trial Chamber issued Considerations on the Appeals filed by the National Co-Prosecutor against the Closing Order (Indictment) and by the International Co-Prosecutor against the Closing Order (Dismissal Order).

On 3 April 2020, the Trial Chamber issued a statement concerning the Charged Person **AO An** in Case 004/2, stating that it had never been formally notified of the case and it had not received the case file. The Trial Chamber understands that most of the case file is confidential and considers this to be a substantial issue in that the Trial Chamber has no access to that material and can have no access.

The Trial Chamber has stated that so far the case file is in the Pre-Trial Chamber's possession and the Pre-Trial Chamber has not yet forwarded it to the Trial Chamber since 19 December 2019 when the Pre-Trial Chamber issued its Considerations.

The National Judges of the Trial Chamber is of the view that the case has been concluded before the Pre-Trial Chamber. Therefore, the Trial Chamber does not have authority to make any decision regarding the case and has stated there will not be a trial of the Charged Person **AO An** now or in the future.

The National Co-Prosecutor agrees with the National Judges of the Trial Chamber that Case 004/2 against the Charged Person **AO An** has already been concluded before the Pre-Trial Chamber and there is no need for the the National Co-Prosecutor to take any action.