



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

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STATEMENT BY THE OFFICE OF THE CO-PROSECUTORS ON CASE 004/01

Rule 54 Summary of the Co-Prosecutor’s Final Submissions regarding Im Chaem

Rule 54 of the ECCC’s Internal Rules provides that while the Co-Prosecutors final submissions are confidential, “mindful of the need to ensure that the public is duly informed of ongoing ECCC proceedings, the Co-Prosecutors may provide the public with an objective summary of the information contained in such submissions....” The below summary of the Co-Prosecutors Final Submissions regarding the investigation of Im Chaem is issued in accordance with this rule and the Co-Prosecutors’ belief that transparency contributes to public confidence in judicial institutions.

The Co-Prosecutors filed their Final Submissions on Case 004/01, the investigation of Im Chaem, on 27 October 2016. It will now be up to the Co-Investigating Judges to decide whether Im Chaem is a person who is subject to the personal jurisdiction of the ECCC and whether the investigation has established her responsibility for crimes within the jurisdiction of the ECCC to the standard required to indict her on criminal charges and send her to trial. As with all charged or accused persons at the ECCC, Im Chaem retains the presumption of innocence which is only lifted if and when guilt is established at trial and through appeal.

The Co-Prosecutors filed separate Final Submissions in the case against Im Chaem, reflecting their separate views on the case. The National Co-Prosecutor submitted that pursuant to the ECCC’s governing law, Im Chaem was not within the category of those individuals over whom the ECCC has jurisdiction as she was neither a “senior leader” of the Democratic Kampuchea (“DK”) regime nor among those “most responsible” for the crimes committed during the DK

regime. The International Co-Prosecutor submitted that in his view of the evidence, while Im Chaem was not a “senior leader,” she was among those “most responsible” for crimes within the meaning of the ECCC’s governing law and thus the personal jurisdiction requirements were met. The International Co-Prosecutor also provided his analysis of the evidence collected in the investigation and an explanation why in his view; it establishes Im Chaem’s responsibility for several serious crimes within the jurisdiction of the ECCC.

National Co-Prosecutor’s submissions

Having examined the results of the preliminary investigation and the judicial investigation concluded by the Co-Investigation Judges, the National Co-Prosecutor took a firm position that only the existing accused persons at the ECCC are senior leaders and those who were most responsible in the DK regime. Therefore, priority should be given to the trial of these accused persons to complete the court’s mandate because the ECCC Law and the Agreement between the Royal Government of Cambodia and the United Nations (“UN”) only foresees the prosecution of a limited number of persons.

In accordance with the ECCC Law and the Agreement in which the UN recognized the legitimate concern of the Royal Government of Cambodia and the people of Cambodia in the pursuit of justice and national reconciliation, stability, peace and security, the Co-Prosecutors are required to select only two categories of persons for prosecution: senior leaders of DK and those who were most responsible for serious violations of Cambodian criminal law, international humanitarian law and custom, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.

Therefore, the National Co-Prosecutor took the position that IM Chaem in Case 004/1 does not fall within the ECCC’s personal jurisdiction to face prosecution.

International Co-Prosecutor’s submissions

The International Co-Prosecutor acknowledged that Im Chaem never held a position as a member of the DK Standing Committee or Central Committee, she was not a Zone or Sector Secretary in the Communist Party of Kampuchea (“CPK”) hierarchy and was not a high ranking

officer in the CPK's military forces. The International Co-Prosecutor therefore submitted that Im Chaem was not a "senior leader" of DK within the meaning of the ECCC's governing law.

However, the International Co-Prosecutor submitted that the evidence establishes that Im Chaem fit the second criteria for inclusion within the ECCC's personal jurisdiction as she was among those "most responsible" for crimes committed during the DK regime. In his view, through her leadership positions at the district and sector levels in both the Southwest and Northwest Zones – which gave her control over numerous armed forces and the lives of tens of thousands of civilians, Im Chaem played a key role in the commission of crimes which led to many thousands of deaths.

What follows is a summary of the International Co-Prosecutor's arguments regarding why, in his view, Im Chaem is responsible for crimes against humanity and grave breaches of the Geneva Conventions. However, it will be the responsibility of the Co-Investigating Judges to make their own analysis of the evidence and determine whether there is sufficient evidence that Im Chaem is criminally responsible for the crimes alleged and satisfies the criteria for the exercise of the Court's jurisdiction to send the case to trial. This summary does not include the views of the defence, who have filed their own submissions on their view of the evidence.

The International Co-Prosecutor's Final Submission argued that Im Chaem held positions of responsibility that enabled her to make a significant contribution to crimes committed in areas where she exercised authority. Within the CPK's strict hierarchical structure of power, DK was divided in zones, which were subdivided into sectors, which were in turn subdivided into districts. Above the zone level was the Central Committee – the highest level of CPK authority. And below the district level were further subdivisions of cooperatives and villages. Im Chaem was District Secretary (the leader of the district) in Koh Andet in Sector 13 of the Southwest Zone and later Preah Net Preah District in Sector 5 of the Northwest Zone. District secretaries were considered a crucial level of CPK leadership due to their position as a link between cooperatives and the upper levels of the Khmer Rouge. At the same time she was a district secretary, Im Chaem was a Sector 13 Committee member in the Southwest Zone and later Sector 5 Committee member then Deputy Secretary of Sector 5 in the Northwest Zone. Sector committee members were generally the third highest position in a sector and deputy secretaries were the second highest position. Sector committees had authority for all matters – military and

civilian – in their respective sectors. Roles held by Im Chaem in the Southwest and Northwest Zones were assigned to her by Ta Mok or Pol Pot, demonstrating her close links to the highest levels of the CPK and the trust that the top Khmer Rouge leaders had in Im Chaem to implement the CPK's policies.

According to the International Co-Prosecutor's analysis, Im Chaem's responsibility for crimes in the Southwest and the Northwest Zones spanned most of the DK regime period. She was responsible for events in Koh Andet District and Sector 13 in the Southwest Zone as a district and sector official from 1976 to mid-1977. This included authority over Wat Ang Srei Mealy security office at which Khmer Krom, in particular, were targeted, imprisoned and killed in large numbers. In mid-1977, Im Chaem was chosen by the CPK hierarchy to lead purges in the Northwest Zone, resulting in a wave of arrests, imprisonment and killings of Khmer Rouge cadres and their families. From mid-1977 until the end of the DK regime in 1979, Im Chaem contributed to crimes in Preah Net Preah District and Sector 5 in the Northwest Zone using her district and sector level positions. Her contributions to the crimes included helping to establish the Phnom Trayoung security office, one of the largest security offices in DK, as well as overseeing Chakrey, Wat Preah Net Preah and Wat Chamkar Khnol security offices. Thousands of individuals were arbitrarily arrested, detained and executed in these and other locations under her responsibility. Im Chaem also initiated construction at Spean Spreng dam and Prey Roneam reservoir and assigned many workers to Trapeang Thma dam. Thousands of individuals were forced to labour at these large irrigation projects and various other worksites under Im Chaem's responsibility in conditions amounting to enslavement. The crimes to which Im Chaem contributed included executions of persons of Vietnamese ethnicity and those perceived to be associated with Vietnam, persons connected to the Lon Nol regime and persons deemed for various other reasons to be "enemies" of the CPK. Individuals were also forced to marry at numerous locations under Im Chaem's control, with many of these forced marriages resulting in rapes. These crimes were not isolated incidents, but occurred systematically throughout the time Im Chaem held positions of authority.

The International Co-Prosecutor argued that the crimes for which Im Chaem is responsible amount to the crimes against humanity of: murder, extermination, enslavement, imprisonment, torture, persecution and the other inhumane acts of forced marriage, rape, enforced disappearance and confinement in inhumane conditions; as well as the war crimes of: wilful

killing, inhuman treatment, wilfully causing great suffering or serious injury to body or health, wilfully depriving civilians the rights of fair and regular trial and unlawful confinement of civilians. The International Co-Prosecutor argued that Im Chaem was involved in a common criminal plan with other CPK figures to commit these crimes in both the Southwest Zone and the Northwest Zone. The crimes were committed in order to eliminate enemies and opposition to the Khmer Rouge leadership and implement the CPK's radical agrarian, economic and social policies. The International Co-Prosecutor also argued that Im Chaem planned, instigated, ordered and aided and abetted the commission of crimes, and is criminally responsible in that she was the superior of perpetrators, knew about the crimes and failed to take reasonable measures to prevent the crimes or punish those responsible.

The International Co-Prosecutor's Final Submission consisted of 136 pages of substantive analysis with an accompanying 2351 citations to evidence collected during the Co-Investigating Judges' investigation. The evidence in the Im Chaem investigation included approximately 1,450 written records of interview, as well as numerous: contemporaneous CPK and DK records; S-21 prisoner lists; Documentation Center of Cambodia interviews and documentation; trial transcripts from Cases 001, 002/01 and 002/02; photographs; maps; and, academic books and articles. Among this voluminous evidence, the International Co-Prosecutor identified 287 Civil Party Applicants that describe crimes committed in locations that at the time were under Im Chaem's authority. Many of those victims specifically identify Im Chaem by name as a person responsible for the crimes committed against them and their relatives. In order to recognise those persons who came forward to describe their suffering, the applications were summarised and annexed to the International Co-Prosecutor's Final Submission. The International Co-Prosecutor intends to ask the Co-Investigating Judges to make his Final Submission and the defence response to his Final Submission public after appropriate redactions are made to protect the security and privacy of witnesses and victims.

The above summarises the respective views of the Co-Prosecutors. Readers are reminded that this does not include the views of the defence. Further, this summary of the Co-Prosecutor's submission is in no way intended to reflect the view of the Co-Investigating Judges, who will make their own determination of the issues.

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