

EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA (ECCC)

COMPLETION PLAN

REVISION 35

31 December 2022

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Note to the reader:

The ECCC Completion Plan is revised on a quarterly basis for planning purposes. It contains the best possible estimates for projection of timelines in the remaining cases before the ECCC at the time of revision. A number of factors, including developments in the judicial proceedings may impact these projections. As such the timelines do not reflect statutory requirements on when the different milestones will be reached. The ECCC Completion Plan is prepared and issued by the Office of Administration with input from the judicial offices.



Summary

The Completion Plan for the Extraordinary Chambers in the Courts of Cambodia (“Extraordinary Chambers”) was initially developed in *March 2014* through consultation by the Office of Administration with the judges of the chambers, the co-investigating judges and the co-prosecutors for their respective responsibilities. This is the thirty-fourth quarterly update of the Completion Plan covering the quarter ending 31 December 2022.¹

During this quarter, the Supreme Court Chamber notified its full written judgment on the appeals against the trial judgement in case 002/02 against Khieu Samphan, thereby completing appeal proceedings in that case. The Extraordinary Chambers relocated operations to its residual premises in central Phnom Penh.

¹ The initial Completion Plan and its revisions are available publicly on the *ECCC website*.

I. INTRODUCTION

1. The Extraordinary Chambers in the Courts of Cambodia (“Extraordinary Chambers”) began its operations in February 2006 and became fully operational after the adoption of its *Internal Rules* in June 2007. The mandate of the Extraordinary Chambers is to prosecute “senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979”.² In December 2021, the *Addendum to the Agreement between the United Nations and the Royal Government of Cambodia* entered into force. The Addendum confers the Extraordinary Chambers with a residual mandate which will commence for an initial period of three years upon the completion of appeal proceedings.
2. This Completion Plan is elaborated by the Extraordinary Chambers in the context of the General Assembly resolution *A/RES/68/247B*, which *inter alia* mandates the Extraordinary Chambers’ preparation of a completion strategy with a clear road map. The document has been developed by the Extraordinary Chambers through consultation by the Office of Administration with the judges of the Pre-Trial Chamber, the Trial Chamber and the Supreme Court Chamber, with the co-investigating judges, and with the co-prosecutors for their respective responsibilities. The Extraordinary Chambers update this Completion Plan on a quarterly basis. The current document is the thirty-fifth revision, and it incorporates adjustments based on the developments in the ongoing judicial proceedings between 1 October and 31 December 2022.
3. The document provides information on the status of the case before the Extraordinary Chambers. Appeal proceedings in case 002 have completed following the final adjudication of case 002/02.³ The co-prosecutors have stated publicly that there will be no further cases after case 004.⁴ The existing caseload thus represents the totality of the caseload to be addressed by the Extraordinary Chambers.

II. COMPLETED CASES⁵

4. **Case 001** against Kaing Guek Eav (alias *Duch*) was the first case tried before the Extraordinary Chambers. On 3 February 2012, the Supreme Court Chamber pronounced its judgement in the appeal against the Trial Chamber judgement which brought the case to a conclusion. The convicted person passed away on 2 September 2020 in hospital while serving a life sentence.
5. **Case 002** was severed into two trials. The Trial Chamber rendered judgement in the first trial, styled as case 002/01, on 7 August 2014, against Nuon Chea and Khieu Samphan. Two further accused in the case, Ieng Sary and Ieng Thirith, passed away on 14 March 2013 and 22 August 2015 respectively, and proceedings against them were therefore terminated. The Trial Chamber found Khieu Samphan and Nuon Chea guilty of crimes against humanity committed between 17 April 1975 and December 1977 and sentenced them each to life imprisonment. Appeal proceedings in the case were concluded on 23 November 2016, with the pronouncement of the Supreme Court Chamber’s judgement. The Chamber affirmed the sentence of life imprisonment imposed on both accused.

² *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.

³ On 27 February 2017, the Trial Chamber issued a ruling by which it decided to terminate the proceedings concerning the facts set out in the closing order in case 002 which were not included in case 002/01 or case 002/02: Case No. 002/19-09-2007/ECCC/TC (*Document E439/5*).

⁴ *Statement of Acting International Co-Prosecutor – Filing of Two New Introductory Submissions*, 8 September 2009; *Public Statement by the Co-Prosecutors regarding Investigation in Case 003*, 5 June 2012; and *Statement by the International Co-Prosecutor regarding ECCC Caseload*, 26 November 2014.

⁵ For underlying references, refer to *revision 31 of the Completion Plan*.

6. The second trial in this case, styled as case 002/02, focused on a representative selection of the remaining charges against Nuon Chea and Khieu Samphan. The Trial Chamber delivered an oral summary of the findings and the disposition of the judgement on 16 November 2018, and issued its written judgement in all three working languages on 28 March 2019. The Chamber found Khieu Samphan and Nuon Chea guilty of genocide, war crimes and crimes against humanity, and sentenced them each to life imprisonment.
7. On 4 August 2019, Nuon Chea passed away aged 93 while admitted to the Khmer-Soviet Friendship Hospital. The Supreme Court Chamber terminated further appellate proceedings against him on 13 August 2019 and confirmed that no further proceedings are possible in the case against Nuon Chea.
8. On 22 September 2022, the Supreme Court Chamber pronounced its judgment on the appeals in case 002/02, upholding the life sentence imposed on Khieu Samphan by the Trial Chamber. The Supreme Court Chamber affirmed the Trial Chamber's convictions of Khieu Samphan for genocide and war crimes. The Chamber upheld all but two convictions related to crimes against humanity and recharacterized convictions for aiding and abetting murder at cooperatives, worksites and security centres to the mode of liability of joint criminal enterprise. The Chamber further granted the appeal of the co-prosecutors in its entirety and entered a conviction for crimes related to male victims of forced sexual intercourse in the context of forced marriage. The full text of the judgment was filed on 23 December 2022 in Khmer and English.⁶ This completed appeal proceedings in case 002.
9. **Case 003.** On 28 November 2018, the co-investigating judges issued two separate and conflicting closing orders in case 003 against Meas Muth. On 17 December 2021, the Supreme Court Chamber clarified that "in the absence of a definitive and enforceable indictment, Case 003 is terminated". Case file 003 was sealed and archived by judicial order on 20 December 2021, thereby completing judicial proceedings in the case.
10. **Case 004.** On 28 June 2019 the co-investigating judges issued two separate and conflicting closing orders in case 004 against Yim Tith. On 28 December 2021, the Supreme Court Chamber clarified that "in the absence of a definitive and enforceable indictment, Case 004 is terminated". Case file 004 was sealed and archived by judicial order on 29 December 2021, thereby completing judicial proceedings in the case.
11. **Case 004/01.** On 10 July 2017, the co-investigating judges issued their reasoned closing order dismissing case 004/01 against Im Chaem. The international co-prosecutor appealed the decision before the Pre-Trial Chamber. On 28 June 2018, the Pre-Trial Chamber disposed of the appeal, declaring that the decision of the co-investigating judges – namely, that the Extraordinary Chambers have no jurisdiction over Im Chaem – stands, thereby completing judicial proceedings in the case.
12. **Case 004/02.** On 16 August 2018, the co-investigating judges issued two separate and conflicting closing orders in case 004/02 against Ao An. On 10 August 2020 the Supreme Court Chamber clarified that "in the absence of a definitive and enforceable indictment, the case against Ao An is hereby terminated before the ECCC". Case file 004/02 was sealed and archived by judicial order on 14 August 2020, thereby completing judicial proceedings in the case.

III. ONGOING CASE

13. On 22 December 2022, the Supreme Court Chamber directed the Co-Prosecutors to initiate and implement the enforcement of Khieu Samphan's sentence (see para 8 above) in accordance with

⁶ The French version of the judgment is projected to be filed in the first quarter of 2023.

Internal Rule 113 and in cooperation with the national authorities.⁷

14. The Chamber is seized with two motions regarding the reclassification of documents in case 002 and case 004/02.⁸ The Chamber will render a decision at the appropriate time.

IV. MEASURES THAT MAY ASSIST EXPEDITIOUS COMPLETION OF PROCEEDINGS

15. Following the expression of support from the Royal Government of Cambodia, the General Assembly authorized the Secretary-General in December 2021, as an exceptional measure, to enter commitments in an amount not to exceed \$7.0 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2022. This timely action greatly facilitated the uninterrupted operations of the Extraordinary Chambers during 2022, opening space for continued solicitation of voluntary contributions. In addition, the Royal Government's commitment of direct contribution of \$3.4 million to the national component, to cover the first ten months of national staff salary costs as well as operational costs arising in 2022 is a key measure facilitating the ongoing operation of the Extraordinary Chambers. In combination, these measures have ensured that the ongoing workload of the Extraordinary Chambers continues to receive sustained attention and necessary funding. Voluntary contributions received for 2022 are \$3.5 million for the international component and \$0.5 million for the national component. This is against the budgetary requirement for 2022 of \$8.4 million for the international component and \$4.3 million for the national component.⁹

V. CONCLUSION

16. For 2022, one milestone was reached with the issuance of the written appeal judgement in case 002/02 by the Supreme Court Chamber in the fourth quarter.
17. In 2023, the Extraordinary Chambers will commence residual functions in line with the Addendum to the Agreement on the ECCC.¹⁰

⁷ Case File No. 002/19-09-2007-ECCC/SC (*Document F77/1/1*). On 18 January 2023, the Co-Prosecutors initiated the formal process of transfer with a request to the Cambodian General Department of Prisons for transfer of the convicted person to a domestic prison. See Case File No. 002/19-09-2007-ECCC/SC (*Documents F80, F81, F82*).

⁸ Case File No. 002/19-09-2007-ECCC/SC (*Document F71*); Case File No. 004/02/19-05-2020-ECCC/SC(04) (*Document E004/2/7*).

⁹ *Budget figures for 2021-2022 were endorsed by the Group of Interested States on 24 December 2021.*

¹⁰ See paragraph 1.