



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Appendix A

FILING INSTRUCTION

(To Be Completed by Lodging Party)

Case Number:	D360/33	Document Date: Date Filed:	19 Dec 2019
Document Titles:	Considerations on Appeals Against Closing Orders		
Number of Pages:	273	Language(s) Filed:	<input checked="" type="checkbox"/> Khmer <input checked="" type="checkbox"/> English <input checked="" type="checkbox"/> French
Filed By:	<input type="checkbox"/> SCC <input type="checkbox"/> TC <input checked="" type="checkbox"/> PTC <input type="checkbox"/> OCIJ <input type="checkbox"/> OCP <input type="checkbox"/> CMS <input type="checkbox"/> Defence for <input type="checkbox"/> LCLs <input type="checkbox"/> Civil Party <input type="checkbox"/> Other Kristina O'Young Name: Telephone: 6338		
Classification Suggested by the Filing Party	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:		
Reason For Suggested Confidentiality			

NOTIFICATION INSTRUCTION

(To Be Completed by Greffier, or Case File Officer, on behalf of Greffier)

Assigned Document No.:	D360/33	Category No.:	Page Numbers:	273
Security Classification Order:	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:			
Classification Status:	<input type="checkbox"/> Interim <input type="checkbox"/> Confirmed			
Review of Interim Classification:	Date: 19 Dec. 2019 Greffier Name: Kristina O'Young Signature: KOY <input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:			
Notification To Be Sent To:	<input type="checkbox"/> SCC <input type="checkbox"/> TC <input checked="" type="checkbox"/> PTC <input checked="" type="checkbox"/> OCIJ <input checked="" type="checkbox"/> OCP <input checked="" type="checkbox"/> Defence for Ao An <input type="checkbox"/> LCLs <input checked="" type="checkbox"/> Civil Party Ao An <input type="checkbox"/> DSS <input type="checkbox"/> Detention Facility <input type="checkbox"/> Press <input type="checkbox"/> CMS <input type="checkbox"/> Other:			
Processing Priority:	<input checked="" type="checkbox"/> Urgent (Same day) <input type="checkbox"/> Normal (Within 24 to 48 hrs) <input type="checkbox"/> Low Priority (Within 3 days or more)			
Signed:	Kristina O'Young Greffier Dated: 19 Dec. 2019			

CMS Only

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<input type="checkbox"/> Case File Updated <input type="checkbox"/> ZyLAB Updated (certified copy(ies)).	
Signed:	Records + Archives Dated:
<input type="checkbox"/> Case File Updated <input type="checkbox"/> ZyLAB Updated (for incoming translations).	
Signed:	Records + Archives Dated:





អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
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Appendix A

FILING INSTRUCTION
(To Be Completed by Lodging Party)

Case Number:	D359/24	Document Date: Date Filed:	19 Dec. 2019.
Document Titles:	Considerations on Appeals Against Closing Orders		
Number of Pages:	273	Language(s) Filed:	<input checked="" type="checkbox"/> Khmer <input checked="" type="checkbox"/> English <input checked="" type="checkbox"/> French
Filed By:	<input type="checkbox"/> SCC <input type="checkbox"/> TC <input checked="" type="checkbox"/> PTC <input type="checkbox"/> OCIJ <input type="checkbox"/> OCP <input type="checkbox"/> CMS <input type="checkbox"/> Defence for <input type="checkbox"/> LCLs <input type="checkbox"/> Civil Party <input type="checkbox"/> Other Kristina O'Young Name: Telephone: 6338		
Classification Suggested by the Filing Party	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:		
Reason For Suggested Confidentiality			

NOTIFICATION INSTRUCTION

(To Be Completed by Greffier, or Case File Officer, on behalf of Greffier)

Assigned Document No.:	D359/24	Category No.:		Page Numbers:	273
Security Classification Order:	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:				
Classification Status:	<input type="checkbox"/> Interim <input type="checkbox"/> Confirmed				
Review of Interim Classification:	Date: 19 Dec 2019 Greffier Name: Kristina O'Young Signature: KOY <input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:				
Notification To Be Sent To:	<input type="checkbox"/> SCC <input type="checkbox"/> TC <input checked="" type="checkbox"/> PTC <input checked="" type="checkbox"/> OCIJ <input checked="" type="checkbox"/> OCP <input checked="" type="checkbox"/> Defence for Ao Am, <input type="checkbox"/> LCLs <input checked="" type="checkbox"/> Civil Party Ao Am <input type="checkbox"/> DSS <input type="checkbox"/> Detention Facility <input type="checkbox"/> Press <input type="checkbox"/> CMS <input type="checkbox"/> Other:				
Processing Priority:	<input checked="" type="checkbox"/> Urgent (Same day) <input type="checkbox"/> Normal (Within 24 to 48 hrs) <input type="checkbox"/> Low Priority (Within 3 days or more)				
Signed:	KOY	Greffier		Dated:	19 Dec 2019.

CMS Only

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Signed:	Records + Archives Dated:
<input type="checkbox"/> Case File Updated <input type="checkbox"/> ZyLAB Updated (for incoming translations).	
Signed:	Records + Archives Dated:



Olivier Beauvallet

From: Suy-Hong Lim <Lim.Suy-Hong@eccc.gov.kh>
Sent: 21 January 2020 1:00 PM
To: Brenda HOLLIS; Leang Chea; Luch MOM; Goran Sluiter; RICHARD ROGERS
Cc: Kimsan Prak; Thol Ney; Vuthy Huot; Olivier Beauvallet; Kang Baik; Tony Kranh; Knut Roesandhaug
Subject: information

ជូនចំពោះភាគី

អង្គជំនុំជម្រះសាលាដំបូងបានណែនាំឱ្យជូនដំណឹងទៅលោក លោកស្រី ដូចខាងក្រោម៖
 អង្គជំនុំជម្រះសាលាដំបូងបានដឹងអំពីសេចក្តីពិចារណារបស់អង្គបុរេជំនុំជម្រះលើបណ្តឹងឧទ្ធរណ៍ប្រឆាំងនឹងដីកាដោះស្រាយ ដែលបានផ្សព្វផ្សាយជាសាធារណៈ នៅថ្ងៃទី១៩ ខែធ្នូ ឆ្នាំ២០១៩ រួមទាំងឯកសារនានា ដែលភាគីបានបញ្ជូនមកអង្គជំនុំជម្រះសាលាដំបូងកន្លងមក។ ប៉ុន្តែរហូតមកដល់ពេលនេះ អង្គជំនុំជម្រះសាលាដំបូងមិនបានទទួលសេចក្តីពិចារណា និងដីកាបញ្ជូនរឿងទៅជំនុំជម្រះ ព្រមទាំងសំណុំរឿងនៅឡើយទេ។
 សូមលោក លោកស្រី ទទួលនូវការគោរពអំពីខ្ញុំ។

លីម ស៊ុយហុង

ក្រុទ្ធិបញ្ជីនៃអង្គជំនុំជម្រះសាលាដំបូង

Dear Parties,

The Chamber has asked me to inform you of the following :

It is aware of the publicly available Considerations on Appeal against Closing Orders issued by the Pre-Trial Chamber on December 19, 2019 and documents you sent to the Trial Chamber.

However, these Considerations have so far not been notified to the Trial Chamber and neither the Indictment nor the Casefile have been forwarded yet.

Best regards,
 LIM Suy-Hong

Greffier of the Trial Chamber

Olivier Beauvallet

From: Hyuree KIM <KIM.Hyuree@eccc.gov.kh>
Sent: 28 January 2020 2:56 PM
To: Kang Baik; Olivier Beauvallet
Subject: FW: Case 004/2 case file
Attachments: Filing instruction D359_24 and D360_33.pdf

Dear Judges,

Below emails from

- (i) CMS to the International Greffiers
- (ii) Bophana's email to the CMS

Thank you.

Best regards,
Hyuree

From: Rada Sann
Sent: 28 January 2020 2:54 PM
To: Bophana Ros <Ros.Bophana@eccc.gov.kh>; Kristina Grace OYOUNG <kristina.oyoung@un.org>; Hyuree KIM <KIM.Hyuree@eccc.gov.kh>
Cc: Birhane Wossen RETA <retab@un.org>; Sotheavy Sour <Sour.Sotheavy@eccc.gov.kh>; Sophy Kong <Kong.Sophy@ECCC.GOV.KH>
Subject: RE: Case 004/2 case file

Dear All,

Today, I received two different instructions from PTC greffier regarding documents D359/24 & D360/33. The first is from the National greffier instructing CMS to not notify the documents to TC. The second is from the International Greffier instructing CMS to notify the documents to TC. As these two instructions are conflicting, CMS can't proceed with either. Please clarify and advise.

Thanks.

Best regards,
Rada

From: Bophana Ros
Sent: 28 January 2020 11:32 AM
To: Rada Sann <sann.rada@eccc.gov.kh>
Cc: Birhane Wossen RETA <retab@un.org>; Sotheavy Sour <Sour.Sotheavy@eccc.gov.kh>
Subject: Case 004/2 case file

ជូនចំពោះលោក វ៉ានា

ដោយបានឃើញអ៊ីម៉ែលចេញពីអង្គជំនុំជម្រះសាលាដំបូង ដែលបានចម្លងជូនអង្គបុរេជំនុំជម្រះ ខ្ញុំទទួលបានការ
ណែនាំអំពីចៅក្រមជាតិនៃអង្គបុរេជំនុំជម្រះឲ្យជូនដំណឹងទៅលោកវ៉ានា នៅក្នុងសេចក្តីសម្រេច D359/24 & D360/33
ក្រុងផ្នែកនៃសេចក្តីសម្រេច ចៅក្រមអង្គបុរេជំនុំជម្រះទាំងអស់បានសម្រេចរួចហើយថាជូនដំណឹងដល់ភាគីនៃសំណុំ
រឿងអំពីសេចក្តីសម្រេចនេះ។

ដោយឡែកអង្គជំនុំជម្រះសាលាដំបូងពុំមែនជាភាគីនៃសំណុំរឿងនេះទេ ដូច្នេះពុំចាំបាច់ត្រូវធ្វើការជូនដំណឹងដល់អង្គ
ជំនុំជម្រះសាលាដំបូងឡើយ។ ម្យ៉ាងទៀតសំណុំរឿង០០៤/២ នេះត្រូវបានបញ្ចប់ហើយ។ ដូច្នេះសំណុំរឿង០០៤/២ នេះគប្បី
ត្រូវរក្សាទុកនៅអង្គភាពបណ្តាសារនៃផ្នែករដ្ឋបាលកុលាការ។

ប្រសិនបើលោកមានចម្ងល់ លោកអាចទាក់ទងគ្រូលប់មកខ្ញុំវិញជានិច្ច។

សូមលោកទទួលនូវការគោរពអំពីខ្ញុំ។
បូផាណា

Dear Rada,

Having seen an email from TC copied to PTC, I received instruction from the national judges of PTC to notify you that
in our disposition of the D359/24 & D360/33 decision all PTC judges decided to notify only parties.

Trial Chamber is not a party of this case, therefore notification to TC is not needed here. Moreover, this 004/2 case
is finished. So the case files should be kept at the archive unit of CMS.

Please let me know should you have any question.

Best regards,
Bophana



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Ms. Sotheary Sank, Mr. Rada SANN and Ms. Bichane RETA @ ~1:57pm

ព្រឹត្តិបត្រចម្លងបញ្ជីបញ្ជូន

Certified Copy/Copie (Attachment 4)

28 28 Month/Mois) January

2020 at ~1:57pm Appendix A

Kristina O'YOUNG Chief of Greffier

FILING INSTRUCTION

(To Be Completed by Lodging Party)

Form with fields: Case Number, Document Titles, Number of Pages, Filed By, Classification Suggested by the Filing Party, Reason For Suggested Confidentiality.

NOTIFICATION INSTRUCTION

(To Be Completed by Greffier, or Case File Officer, on behalf of Greffier)

Form with fields: Assigned Document No., Security Classification Order, Classification Status, Review of Interim Classification, Notification To Be Sent To, Processing Priority, Signed, Dated.

CMS Only

Form with fields: Certified Copy by Case File Officer, Case File Updated, ZyLAB Updated (certified copy(ies)), Signed, Records + Archives, Dated.





អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

ប្រតិបត្តិការស្របច្បាប់
Certified Copy/Copie Conforme
 28 (Month/Mois) January
 2020 (Year/Année) at ~1:57pm
 Appendix A
 អធិបតីនាយក/Chief of Greffier
 KRISTINA O'YOUNG

ms. Sotheavy SOUK, Mr. Rada SANN and Mr. Birkane KETA @ ~1:57pm

FILING INSTRUCTION
 (To Be Completed by Lodging Party)

Case Number:	004/2/07-09/2009-ECCC/0413 (PTC 60) D360/33	Document Date:	19 Dec 2019
Document Titles:	Considerations on Appeals Against Closing Orders		
Number of Pages:	273	Language(s) Filed:	<input checked="" type="checkbox"/> Khmer <input checked="" type="checkbox"/> English <input checked="" type="checkbox"/> French
Filed By:	<input type="checkbox"/> SCC <input type="checkbox"/> TC <input checked="" type="checkbox"/> PTC <input type="checkbox"/> OCIJ <input type="checkbox"/> OCP <input type="checkbox"/> CMS <input type="checkbox"/> Defence for <input type="checkbox"/> LCLs <input type="checkbox"/> Civil Party <input type="checkbox"/> Other		
Classification Suggested by the Filing Party	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:		
Reason For Suggested Confidentiality			

NOTIFICATION INSTRUCTION

(To Be Completed by Greffier, or Case File Officer, on behalf of Greffier)

Assigned Document No.: D360/33	Category No.: D360/33	Page Numbers: 273
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Classification Status:	<input type="checkbox"/> Interim <input checked="" type="checkbox"/> Confirmed	
Review of Interim Classification:	Date: 28 Jan. 2020 Greffier Name: Kristina O'YOUNG Signature: K O <input checked="" type="checkbox"/> Public <input type="checkbox"/> Confidential <input type="checkbox"/> Strictly Confidential <input type="checkbox"/> Other:	
Notification To Be Sent To:	<input type="checkbox"/> SCC <input checked="" type="checkbox"/> TC <input type="checkbox"/> PTC <input type="checkbox"/> OCIJ <input type="checkbox"/> OCP <input type="checkbox"/> Defence for <input type="checkbox"/> LCLs <input type="checkbox"/> Civil Party <input type="checkbox"/> DSS <input type="checkbox"/> Detention Facility <input type="checkbox"/> Press <input type="checkbox"/> CMS <input type="checkbox"/> Other:	
Processing Priority:	<input checked="" type="checkbox"/> Urgent (Same day) <input type="checkbox"/> Normal (Within 24 to 48 hrs) <input type="checkbox"/> Low Priority (Within 3 days or more)	
Signed: K O	Greffier: Kristina O'YOUNG	Dated: 28 January 2020

CMS Only

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<input type="checkbox"/> Case File Updated <input type="checkbox"/> ZyLAB Updated (certified copy(ies)).	
Signed:	Records + Archives Dated:
<input type="checkbox"/> Case File Updated <input type="checkbox"/> ZyLAB Updated (for incoming translations).	
Signed:	Records + Archives Dated:





អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

ព្រះរាជាណាចក្រកម្ពុជា Attachment 5

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi


អង្គបុរេជំនុំជម្រះ

Pre-Trial Chamber
Chambre Préliminaire

INTERNAL MEMORANDUM – PRE TRIAL CHAMBER

Date: 29 January 2020

TO : Mr. KONG Sophy, Chief of Court Management Section

FROM : Judge PRAK Kimsan, President of Pre-Trial Chamber 

C.C : H.E KRANH Tony, Acting Director of the office of Administration

: Mr. Knut ROSANDHAUG, Deputy Director of the Office of Administration

: All judges of Pre-Trial Chamber

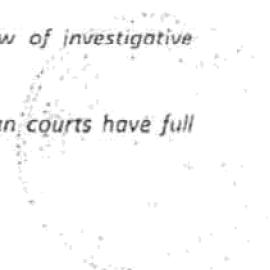
SUBJECT : Clarification on the decision in the case 004/2

REFERENCE : Document number D359/24 & D260/33 dated 19 December 2019

Regarding to the above subject and reference, PTC would like to clarify that in the document number D359/24 & D260/33 dated 19 December 2019, PTC has unanimously decided:

- *ORDERS a joinder of the Appeals against both Closing Orders;*
- *DECIDES that the National Co-Prosecutor's Appeal is admissible;*
- *DECIDES that the International Co-Prosecutor's Appeal is admissible;*
- *DECIDES, in respect of the Co-Lawyers' Appeal for AO An, that Grounds 1 to 9, 11, 12(i), 13, 15(i), 16(ii) and 16(iii) thereof are admissible;*
- *DECIDES that the remaining Grounds in the Co-Lawyers' Appeal for AO An are inadmissible;*
- *DECLARES that the Pre-Trial Chamber may exercise authority over the review of investigative matters;*

DECLARES that, subject to the jurisdiction of the ECCC, the ordinary Cambodian courts have full jurisdiction over matters of criminal justice;



- *DECLARES that the delay in issuing the Closing Orders after the conclusion of the investigation against AO An was unwarranted;*
- *DECLARES that the Co-Investigating Judges erred in assessing the reliability and probative value of the evidence;*
- *DECLARES that the Co-Investigating Judges' issuance of the Two Conflicting Closing Orders was illegal, violating the legal framework of the ECCC;*
- *DECLARES that it has not assembled an affirmative vote of at least four judges for a decision based on common reasoning on the merits;*

In accordance with Internal Rule 77(13), the present Decision is not subject to appeal.

In accordance with Internal Rule 77(14), this Decision shall be notified to the Co-Investigating Judges, the Co-Prosecutors and the parties by the Greffier of the Pre-Trial Chamber.

According to the above joint disposition, judges of PTC notified to only Co-Investigating Judges, Co-Prosecutors, Defense Lawyers and Civil Party Lawyers.

Therefore, notification to any person or chamber who is not a party of this case is violating the unanimous decision of PTC.

Only the joint disposition part unanimously decided and signed by all 5 judges shall have the applicable effect. The personal opinions and decision of each judge shall have no applicable effect.

We hereby instruct to Court Management Section to follow the joint disposition as stated above.





អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the Courts of Cambodia
Chambres Extraordinaires au sein des Tribunaux Cambodgiens

INTEROFFICE MEMORANDUM

TO: HE TONY Kranh ADOA, Knut ROSANDHAUG DDOA,
KONG Sophy, Chief of the Court Management Section

COPY TO: Judge PRAK Kimsan (President), Judge NEY Thol,
Judge HUOT Vuthy

FROM: Judge Olivier BEAUVALLET and Judge Kang Jin BAIK

DATE: 29 January 2020

SUBJECT: **Notification of the Pre-Trial Chamber’s Considerations in Case 004/2**

On 19 December 2019, the Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) delivered its Considerations on Appeal against Closing Orders in Case 004/2, the case against AO An (the “Considerations”). Although the International and the National Co-Investigating Judges issued two separate and conflicting Closing Orders, neither the Indictment nor the Dismissal Order has been reversed by a supermajority vote.

This memorandum addresses the relevant law for notification of the Considerations (I), the current obstacles (II) and the International Judges’ solution (III). It concludes with presenting the current situation (IV).

I- Basic Rules for Notification of Pre-Trial Chamber’s Decision on Appeals against Closing Order

a. Internal Rule 77(14)

With regards to the decisions of the Pre-Trial Chamber on the parties’ appeals against the Co-Investigating Judges’ closing orders, Internal Rule 77(14) provides that: