



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

Phnom Penh, 13 April 2021

**STATEMENT
BY THE INTERNATIONAL CO-PROSECUTOR ON CASE 003**

The International Co-Prosecutor, Brenda J. Hollis, provides this public statement pursuant to ECCC Internal Rule 54, to inform the public regarding the Pre-Trial Chamber’s 7 April 2021 disposition of appeals in the case against MEAS Muth (Case 003).

Contrary to some media reports, the Pre-Trial Chamber’s *Considerations on Appeals Against Closing Orders* (“Considerations”) did *not* dismiss the case against MEAS Muth. *Nor* did it decide to stop the case from proceeding to trial.

The Considerations disposed of appeals from parties in Case 003 against two Investigating Judges’ conflicting closing orders which were issued on 28 November 2018. The closing orders contained differing legal conclusions based on the Investigating Judges’ investigation into crimes alleged against MEAS Muth. One Investigating Judge indicted MEAS Muth for the international crimes of genocide, crimes against humanity and war crimes, as well as violations of the Cambodian Criminal Code, and consequently sent him to trial (“Indictment”). The other Investigating Judge dismissed the case because he did not consider that MEAS Muth falls within the ECCC’s personal jurisdiction (“Dismissal Order”).

The Pre-Trial Chamber used the term “Considerations” rather than “Decision” because under the ECCC’s governing law a “decision” requires agreement of *at least four* of the five judges of the Pre-Trial Chamber. This is known as a “supermajority”.

The five Pre-Trial Chamber judges did unanimously agree that (i) MEAS Muth’s appeal was inadmissible, (ii) the two prosecutors’ separate appeals were both admissible, (iii) the two Investigating Judges’ agreement to issue separate closing orders was illegal under the ECCC’s legal framework, and (iv) there was *no supermajority* for a decision based on common reasoning on whether to uphold or dismiss either or both closing orders. Consequently, three judges found that both the Indictment and Dismissal Order were valid, and two judges found the Indictment was valid and the Dismissal Order was null and void.

Since all five judges unanimously agreed that the Indictment is valid, thereby satisfying the supermajority requirement and two judges of the Pre-Trial Chamber additionally found that the Trial Chamber shall be seised of the Indictment, Case 003 must proceed to trial. To implement the Pre-Trial Chamber’s unanimous *de facto* ruling that the Indictment is valid, the International Co-Prosecutor will request the Co-Investigating Judges, who have been notified of the Considerations, to act in accordance with the Internal Rules and forward the Case File to the Trial Chamber to commence the trial of MEAS Muth, bearing in mind that the ECCC Internal Rules allow a single judge to legally act alone to transfer the Case File and seise the Trial Chamber of the case.



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**STATEMENT
BY THE NATIONAL CO-PROSECUTOR
REGARDING CHARGED PERSON MEAS MUTH OF CASE 003**

Pursuant to ECCC Internal Rule 54, the National Co-Prosecutor provides the following public statement regarding charged person **Meas Muth** in Case 003:

On 7 April 2021, the Pre-Trial Chamber issued its Consideration on Appeals Against Co-Investigating Judges' Closing Orders in Case 003.

The Pre-Trial Chamber in its above Consideration unanimously decided: (cited in relevant parts)

DECLARES that the Co-Investigating Judges' issuance of the Two Conflicting Closing Orders was illegal, violating the legal framework of the ECCC.

In accordance with Internal Rule 77(13), this decision is not subject to appeal.

Furthermore, three national judges of the five judges of the Pre-Trial Chamber decided to transfer Case File 003 in which Meas Muth as charged person to be held at the ECCC archives; whereas, two international judges of the five judges of the Pre-Trial Chamber found the Dismissal Order was null and void and uphold the Indictment of Case 003.

The National Co-Prosecutor observes that the Closing Order (Indictment) of the International Co-Investigating Judge is illegal pursuant to the effect of the Pre-Trial Chamber's Decision **declaring that "the Co-Investigating Judges's issuance of the Two Conflicting Closing Orders was illegal, violating the legal framework of the ECCC."**

The National Co-Prosecutor notes that in its above unanimous decision, concerning charged person Meas Muth, the Pre-Trial Chamber ordered its greffier to notify this decision to the Co-Investigating Judges, the Co-Prosecutors, and relevant Parties in accordance with Internal Rule 77(14).

While the international judges of the Pre-Trial Chamber found that the Trial Chamber shall be seised of Case File 003 on the basis of the Indictment pursuant to Internal Rule 77(13), all three national judges of the Pre-Trial Chamber decided to transfer Case File 003 in which **Meas Muth** is charged person to be held at the ECCC archives.

The National Co-Prosecutor would like to note also that regarding Case 004/2 which is similar in nature to the present case, in accordance with the statement of the Trial Chamber's Judges on Case 004/2 concerning Ao An on 03 April 2020, the National Judges of the Trial Chamber highlighted that there will not be a trial on Case 004/2 concerning Ao An now or in the future.