



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

អង្គមុនជំនុំជម្រះ  
Pre-Trial Chamber  
Chambre Preliminaire

D381/12

*In the name of the Cambodian people and the United Nations and pursuant to the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea*

Case File N° 004/07-09-2009-ECCC/OCIJ (PTC61)

**THE PRE-TRIAL CHAMBER**

**Before:** Judge PRAK Kimsan, President  
Judge Olivier BEAUVALLET  
Judge NEY Thol  
Judge Kang Jin BAIK  
Judge HUOT Vuthy

**Date:** 26 September 2019

<b>ឯកសារដើម</b>	
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**PUBLIC**

**DECISION ON YIM THITH'S REQUEST THAT THE PRE-TRIAL CHAMBER ORDER THE URGENT PROVISION OF AN ACCURATE ENGLISH TRANSLATION OF THE ORDER DISMISSING THE CASE AGAINST YIM TITH AND SUSPEND THE CLOSING ORDER APPEAL TIME LIMITS**

**Co-Prosecutors**

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Brenda J. HOLLIS

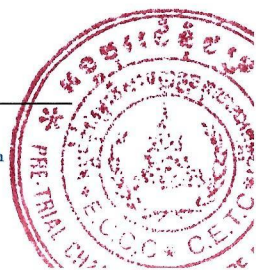
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**THE PRE-TRIAL CHAMBER** of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”) is seised of “YIM Tith’s Request that the Pre-Trial Chamber Order the Urgent Provision of an Accurate English Translation of the Closing Order Dismissing the Case against YIM Tith and Suspend the Closing Order Appeal Time Limits” dated 11 September 2019 (the “Suspension Request”).<sup>1</sup>

1. On 28 June 2019, the National Co-Investigating Judge issued his Order Dismissing the Case against YIM Tith (“Dismissal Order”),<sup>2</sup> in Khmer only, and the International Co-Investigating Judge issued his Closing Order,<sup>3</sup> in English only.

2. On 9 July 2019, the Co-Lawyers for YIM Tith filed “YIM Tith’s Request for Extension of Deadline for Notice of Appeal of Closing Orders”<sup>4</sup> and on 17 July 2019, the Office of the Co-Prosecutors filed their response.<sup>5</sup> On 19 July 2019, the Pre-Trial Chamber issued a decision granting this request and ordered the Parties to file any Notice of Appeal against the Closing Orders in Case 004 within 14 days after the translation of both Closing Orders had been notified.<sup>6</sup>

3. On 10 September 2019, the International Co-Prosecutor filed her “Notice of Appeal against the National Co-Investigating Judge’s Order Dismissing the Case against YIM Tith”,<sup>7</sup> and on 17 September 2019, the Co-Lawyers for YIM Tith filed their “Notice of Appeal against the Closing Orders in Case 004”.<sup>8</sup> The National Co-Prosecutor filed her “Appeal against the

<sup>1</sup> Case 004/07-09-2009-ECCC/OCIJ (“Case 004”), YIM Tith’s Request that the Pre-Trial Chamber Order the Urgent Provision of an Accurate English Translation of the Closing Order Dismissing the Case against YIM Tith and Suspend the Closing Order Appeal Time Limits, 11 September 2019, D381/5 and D382/5 (“Suspension Request”).

<sup>2</sup> Case 004, Order Dismissing the Case against YIM Tith, 28 June 2019, D381.

<sup>3</sup> Case 004, Closing Order, 28 June 2019, D382.

<sup>4</sup> Case 004, YIM Tith’s Request for Extension of Deadline for Notice of Appeal of Closing Orders, 8 July 2019, D381/1 and D382/1.

<sup>5</sup> Case 004, Co-Prosecutor’s Response to YIM Tith’s Request for Extension of Deadline for Notice of Appeal of Closing Orders D381 & D382, 17 July 2019, D381/2 and D382/2.

<sup>6</sup> Case 004, Decision on YIM Tith’s Request for Extension of Deadline for Notice of Appeal of Closing Orders in Case 004, 19 July 2019, D381/3 and D382/3.

<sup>7</sup> Case 004, International Co-Prosecutor’s Notice of Appeal against the Order Dismissing the Case against YIM Tith (D381), 10 September 2019, D381/4.

<sup>8</sup> Case 004, YIM Tith’s Notice of Appeal against the National Co-Investigating Judge’s Order Dismissing the Case against Yim Tith, 17 September 2019, D381/7; Case 004, YIM Tith’s Notice of Appeal against the International Co-Investigating Judge’s Closing Order, 17 September 2019, D382/9.



International Co-Investigating Judge's Closing Order (Indictment) in Case 004"<sup>9</sup> on 13 September 2019, following her Notice of Appeal,<sup>10</sup> filed on 23 August 2019.

4. The Khmer translation of the International Co-Investigating Judge's Closing Order was filed on 14 August 2019 and notified on 15 August 2019. The English translation of the National Co-Investigating Judge's Dismissal Order was filed and notified on 5 September 2019.

5. On 11 September 2019, the Office of the Co-Prosecutors informed the Pre-Trial Chamber, *via* email, that the Office had requested the Interpretation and Translation Unit to review and re-file a corrected version of the English translation of the National Co-Investigating Judge's Dismissal Order.<sup>11</sup>

6. On 11 September 2019, the Co-Lawyers for YIM Tith filed the Suspension Request seeking the Pre-Trial Chamber to (i) order the Interpretation and Translation Unit to produce an accurate English translation of the National Co-Investigating Judge's Dismissal Order as a matter of the utmost urgency; and (ii) suspend the time limit for the Parties' appeals against the Closing Orders pending receipt of the accurate English translation of the National Co-Investigating Judge's Dismissal Order.<sup>12</sup>

7. Pursuant to Internal Rules 39(2) and (4), and Article 8.1 of the Practice Direction on Filing of Documents, the Pre-Trial Chamber may set and/or extend any time limits for the filing of documents, relating to an appeal, taking into account the circumstances of the case.

8. The Pre-Trial Chamber considers, with lament, the Office of the Co-Investigating Judges' issuance of two separate Closing Orders, with their length and complexity as well as the scope and significance of the factual and legal issues raised therein, in only one of the working languages of the ECCC and the palpable inaccuracies observed in the English translation of the National Co-Investigating Judge's Dismissal Order.

9. The Pre-Trial Chamber notes that the Interpretation and Translation Unit has already commenced the requested revision and notified the Chamber that a corrected English

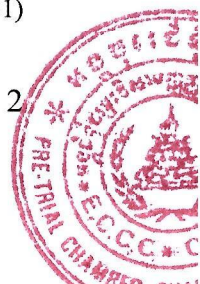
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<sup>9</sup> Case 004, National Co-Prosecutor's Appeal against the International Co-Investigating Judge's Closing Order (Indictment) in Case 004, 13 September 2019, D382/4/1.

<sup>10</sup> Case 004, National Co-Prosecutor's Notice of Appeal against the International Co-Investigating Judge's Closing Order (Indictment), 23 August 2019, D382/4.

<sup>11</sup> Case 004, The Office of Co-Prosecutor's Email concerning Correction of Case 004 Dismissal Order (D381) Translation, dated 11 September 2019 and filed 12 September 2019, D382/6.

<sup>12</sup> Case 004, Suspension Request.



translation of the National Co-Investigating Judge's Dismissal Order will be filed before the third week of October 2019.

10. The Pre-Trial Chamber recalls its obligations under Internal Rule 21 and Article 33 *new* of the ECCC law, and, therefore, finds it justified to suspend the time limit for the Parties' appeals against the Closing Orders in Case 004 until the Interpretation and Translation Unit duly completes its revision and files a corrected English translation of the National Co-Investigating Judge's Dismissal Order. No further extension will be granted.

**FOR THESE REASONS, THE PRE-TRIAL CHAMBER UNANIMOUSLY HEREBY:**

**GRANTS** the Suspension Request in part;

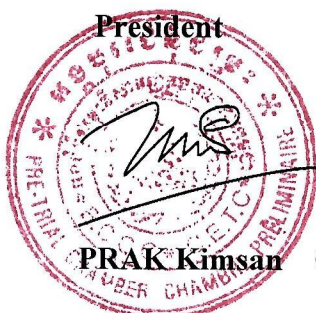
**ORDERS** the suspension of the time limit for the Parties to file their appeals against the Closing Orders in Case 004 until the notification of the Interpretation and Translation Unit's corrected English translation of the National Co-Investigating Judge's Dismissal Order.

**INSTRUCTS** the Interpretation and Translation Unit to duly complete its revision and file a corrected English translation of the National Co-Investigating Judge's Dismissal Order before the third week of October.

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

**Phnom Penh, 26 September 2019**

**Pre-Trial Chamber**



**President**

**PRAK Kimsan**

**Olivier BEAUVALLET**

**NEY Thol**

**Kang Jin BAIK**

**HUOT Vuthy**