



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

20 December 2021

INTERNATIONAL CO-PROSECUTOR’S PRESS RELEASE

On 17 December 2021, the Supreme Court Chamber (SCC) issued its decision dismissing the International Co-Prosecutor’s (ICP) appeal requesting the SCC to send the case against Meas Muth to the ECCC Trial Chamber (TC) for trial. The appeal was based on a unanimous finding of the Pre-Trial Chamber (PTC) Judges that the Indictment against Meas Muth is valid, as well as on the ECCC legal framework that requires a case to go to trial unless at least four of the five PTC Judges overturn the Indictment, which they did not.

The SCC Judges all agreed that it was in the interests of justice to hear the ICP’s application. With one dissent, the SCC held in relevant part that the PTC joint disposition did not unanimously find the Indictment valid, even though every PTC Judge individually made that finding. The SCC concluded that the absence of a definitive and enforceable indictment and of transmission of the case file to the TC justified terminating the case before any determination could be made regarding Meas Muth’s guilt. The SCC decision is final and will not be appealed.

In her dissent, Judge Maureen Harding Clark found the PTC Judges’ decision was invalid as it lacked the required clarity and finality. She agreed with the ICP that the ECCC Agreement and ECCC Law are the Court’s foundational law, not Cambodian national policy. While confirming that these documents envisage the enactment of a default mechanism forwarding the case to trial absent a PTC supermajority favouring dismissal, she found that this could not be implemented because of entrenched differences between the ECCC’s national and international components. She concluded this meant that no realistic avenue existed to correct the PTC’s defective decision, and for that reason only, determined the case should be terminated.

It is important for the victims of crimes alleged in the Indictment against Meas Muth, and Cambodian society in general, to understand what the SCC dismissal does not mean. The SCC did not find that Meas Muth was innocent of the very serious crimes for which he was indicted, including genocide, crimes against humanity such as murder, enslavement, torture, persecution and other inhumane acts such as forced marriage, and grave breaches of the Geneva Conventions. The SCC made no finding on his guilt or innocence. Rather, the dismissal means that there will be no trial before the ECCC to judicially determine his criminal liability.

So, the responsibility now rests with the Cambodian domestic courts to deliver justice by determining whether Meas Muth is criminally liable for these very serious crimes, in an independent, impartial trial decided only on the law and the facts and ensuring fairness for all parties, including the defence and civil parties.