



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

02 July, 2018

STATEMENT BY THE OFFICE OF THE NATIONAL CO-PROSECUTORS ON CASE 004

On 31 May 2018 the National Co-Prosecutor filed their Final Submissions in Case 004, concerning the investigation of Yim Tith. The Internal Rules of the ECCC provide that while the National Co-Prosecutor’ Final Submission(s) must be filed confidentially, the Co-Prosecutor may release to the public an objective summary of their submissions. In the interest of transparency in matters of public interest, the National Co-Prosecutor provides the following summary of information contained in their Final Submissions regarding the Yim Tith investigation. Readers should be aware that the summary below does not include the views of the Defence, and is in no way intended to reflect the opinions of the Co-Investigating Judges (“CIJs”), who will make their own determination of the issues.

A Final Submission is issued by the National Co-Prosecutor at the conclusion of an investigation. In the Final Submission, the National Co-Prosecutor requests the CIJs to dismiss the case against Yim Tith.

The National and International Co-Prosecutors filed separate Final Submissions reflecting their differing views on the CIJs to dismiss the case and to issue an indictment. Yim Tith’s Defence will now have the opportunity to respond to the Final Submissions with their views on the law and evidence. It will then be up to the Co-Investigating Judges to decide whether Yim Tith is subject to the personal jurisdiction of the ECCC and whether the investigation has established his responsibility for crimes within the ECCC’s jurisdiction to the standard required to indict him and send him to trial or to dismiss the case. As with all charged or accused persons at the ECCC, Yim Tith retains the presumption of innocence, which is lifted only if and when guilt is established at trial and confirmed on any appeal.

The National Co-Prosecutor reiterates her previous position that only the existing accused at the ECCC are the senior leaders and persons most responsible for crimes committed in Democratic Kampuchea within the personal jurisdiction of the ECCC. From this point of view, the National Co-Prosecutor did not participate in the preliminary investigation carried out by the Office of the Co-Prosecutors and the Office of the Co-Investigating Judges, and also raised disagreement

between the National Co-Prosecutor and the International Co-Prosecutor at all stages in accordance with the ECCC Internal Rules.

The National Co-Prosecutor notes that the priority should be given to the prosecution of those existing accused in order to sufficiently fulfil the mandate of this tribunal, as the ECCC Law and the Agreement between the United Nations and the Royal Government of Cambodia envisaged only the prosecution of this small group of individuals.

The National Co-Prosecutor notes that through the Preamble to the Agreement between the United Nations and the Royal Government of Cambodia, which was adopted in Resolution No 57/228 dated 18 December 2002 of the UN General Assembly concerning the prosecution under Cambodian law of crimes committed during the period of Democratic Kampuchea, the United Nations recognised the legitimate concerns of the Royal Government of Cambodia and its people in searching for justice, national reconciliation, stability, peace, and security. In this recognition, the ECCC Establishment Law and the Agreement between the United Nations and the Royal Government of Cambodia required that the Co-Prosecutors select only two types of individuals for trial, namely: **senior leaders of Democratic Kampuchea** and **those who were most responsible** for the crimes and serious violations of the Cambodian Criminal Code, international humanitarian law, customary international law, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.

Therefore, the National Co-Prosecutor maintains her position that under the provisions of the ECCC Establishment Law and the Agreement between the United Nations and the Royal Government of Cambodia that established this tribunal, Yim Tith, named in Case 004, is not subject to the personal jurisdiction of the ECCC as he is not **senior leaders of Democratic Kampuchea** and **those who were most responsible**.

The public are reminded that all suspects and charged or indicted persons are presumed innocent unless and until their guilt is proven beyond a reasonable doubt at trial and confirmed on any appeal. The doubt shall benefit the accused in accordance with Article 38 of the Constitution of the Kingdom of Cambodia.

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