



ព្រះរាជាណាចក្រកម្ពុជា

ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

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

Royaume du Cambodge
Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត

Office of the Co-Investigating Judges
Bureau des co-juges d'instruction

Case File No: 003/07-09-2009-ECCC-OCIJ

Before: The Co-Investigating Judges

Date: 2 October 2013

Language(s): Khmer/English [Original in English]

Classification: STRICTLY CONFIDENTIAL Declassified to Public

**ORDER RESUMING THE SCHEDULE FOR FILINGS ON THE
ISSUE OF THE ALLEGED EXISTENCE OF A CONFLICT OF
INTEREST IN THE REPRESENTATION OF MEAS MUTH**

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U.C.H. ARUM	



Noting the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia, dated 27 October 2004;

Noting the International Co-Prosecutor's Second Introductory Submission, dated 20 November 2008, initiating Case File No.003,¹ which was placed on the Case File on 7 September 2009;²

Noting the judicial investigation relating to alleged violations of the **1956 Penal Code, Crimes against Humanity and Grave Breaches of the Geneva Conventions of 12 August 1949**, offences defined and punishable under Articles 3, 5, 6, 29 and 39 of the ECCC Law and Articles 500, 501, 503, 505, 506, 507 and 508 of the 1956 Penal Code;

Noting Rule 72 of the ECCC Internal Rules;

Noting Article 8 of the Practice Direction on the Filing of Documents before the ECCC;

Noting that on 7 February 2013, Judges You Bunleng and Harmon ("International CIJ") signed a Written Record of Disagreement concerning *inter alia* this Decision;

PROCEDURAL HISTORY

1. On 11 February 2013, considering the International Co-Prosecutor's submissions on the possible existence of a conflict of interest of the Co-Lawyers Designate in the representation of Meas Muth ("Suspect"),³ the International CIJ, *inter alia*, invited the Co-Lawyers-Designate to make submissions on the issue and invited the Co-Prosecutor to reply to the submissions from the Co-Lawyers-Designate.⁴
2. On 19 March 2013, in response to new developments occasioned by the death of Ieng Sary (former Accused in Case 002), the International CIJ set a new schedule for further submissions from the parties.⁵
3. On 30 April 2013, the Chief of the Defence Support Section ("DSS") determined that the Suspect was not indigent and therefore not eligible to ECCC's Legal Aid Scheme.⁶

¹ Case File No. 003-D1, *Co-Prosecutor's Second Introductory Submission Regarding the Revolutionary Army of Kampuchea*, 20 November 2008.

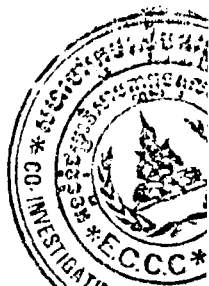
² Case File No. 003-D1/1, *Acting International Co-Prosecutor's Notice of Filing of the Second Introductory Submission*, 7 September 2009.

³ See Case File No. 003-D56/1, *International Co-Prosecutor's Request that Appointment of Co-Lawyers-Designate be Rejected on the Basis of Irreconcilable Conflicts of Interest*, 24 December 2012.

⁴ Case File No. 003-D56/3, *Decision and Scheduling Order Concerning Request for Appointment of Co-Lawyers Designate*, 11 February 2013, paras. 25-30.

⁵ Case File No. 003-D56/5, *Second Decision and Re-scheduling Order Concerning Request for Appointment of Co-Lawyers Designate*, 19 March 2013, paras. 14-15.

⁶ Case File No. 003-D56/11, *Determination of Your Claim of Indigence and Decision on your Request for the Remuneration of Counsel under the ECCC's Legal Assistance Scheme*, 30 April 2013.



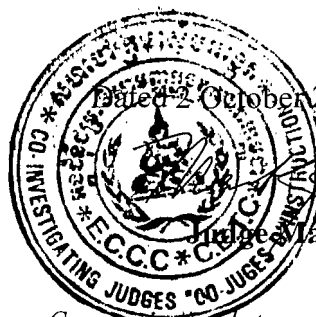
4. On 2 May 2013, the International CIJ suspended the new schedule set on 19 March 2013, pending a decision by the Suspect regarding his representation.⁷
5. On 17 May 2013 the Suspect filed an appeal requesting Co-Investigating Judges to quash the DSS's determination and on 5 June 2013 he filed further submission substantiating his appeal.⁸
6. On 29 July 2013, the International CIJ vacated the DSS's determination and ordered the DSS to reassess the question of the Suspect's indigence by taking into account the factors considered in the appeal decision.⁹
7. On 23 September 2013, DSS issued the *Final Determination of Your Claim of Indigence and Decision on Your Request for the Remuneration of Counsel under the ECCC's Legal Assistance Scheme*, whereby the Chief of the DSS determined that the Suspect was in fact indigent and qualified for remuneration of counsel.¹⁰

DISCUSSION

8. With the final determination of the Suspect's indigence having been made by the DSS, the International CIJ is now in a position to consider the issue of conflict of interest raised by the International Co-Prosecutor. It is therefore appropriate to resume the schedule of filings suspended with the *Decision on Communication between Co-Lawyers-Designate and Suspect*.¹¹

FOR THE FOREGOING REASONS, I, MARK B. HARMON, HEREBY:

9. **LIFT** the suspension of the schedule for filings ordered in the *Decision on Communication between Co-Lawyers-Designate and Suspect*; and
10. **INVITE** the Co-Prosecutors to reply to the *Co-Lawyers' Response to International Co-Prosecutor's Supplementary Submissions on Conflict of Interest of Co-Lawyers-Designate* within five (5) working days of the filing of this Decision.



Dated 2 October 2013, Phnom Penh

Mark B. Harmon

⁷ Case File No. 003-D56/12, *Decision on Communication between Co-Lawyers-Designate and Suspect*, 2 May 2013, paras. 15-16.

⁸ Case File No. 003-D56/11/2, *Meas Muth's Appeal against Determination of Claim of Indigence and Decision on Request for Remuneration of Counsel under the ECCC's Legal Assistance Scheme*, 17 May 2013; Case File No. 003-D56/11/2.2, *Annex to Appeal against Determination of Claim of Indigence and Decision on Request for Remuneration of Counsel*, 17 May 2013; Case File No. 003-D56/11/4, *Meas Muth's Supplemental Submissions to Support His appeal against Determination of Claim of Indigence and Decision on Request for Remuneration of Counsel under the ECCC's Legal Assistance Scheme*, 5 June 2013.

⁹ Case File No. 003-D56/11/7, *Decision on Appeal against the Determination by DSS on the Question of Meas Muth's Indigence*, 29 July 2013, paras 106-107.

¹⁰ Case File No. 003-D56/13, *Final Determination of Your Claim of Indigence and Decision on Your Request for the Remuneration of Counsel under the ECCC's Legal Assistance Scheme*, 23 September 2010, para. 10.

¹¹ Case File No. 003-D56/12, *Decision on Communication between Co-Lawyers-Designate and Suspect*, 2 May 2013, para. 16.



សហចៅក្រមស៊ើបអង្កេតអន្តរជាតិ
International Co-Investigating Judge
Co-juge d'instruction internationale

