



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: 24 May 2017

Language(s): English [Original]

Classification: CONFIDENTIAL

<b>ឯកសារដើម</b>	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Date de reception):	
..... 24 / 05 / 2017 .....	
ម៉ោង (Time/Heure):..... 14:45 .....	
មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé du dossier: ..... SANN RAA .....	

**SECOND NOTICE OF CONCLUSION OF JUDICIAL INVESTIGATION AGAINST MEAS MUTH**

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## I. PROCEDURAL HISTORY

1. Disagreements between the Co-Investigating Judges (“CIJs”) in this case were registered on 7 February 2013, 22 February 2013, 17 July 2014, and 16 January 2017.
2. On 10 January 2017, I notified the parties of the conclusion of the judicial investigation against Meas Muth and notified them that they had 30 days from that notification to request further investigations (“Notification”).<sup>1</sup>
3. On 25 January 2017, the Meas Muth Defence (“Defence”) filed *Meas Muth’s Request for Investigative Action Regarding D114/174, D114/184, and Related Witness Interviews and the Potential Use of Torture-Tainted Evidence* (“First Defence Request”).<sup>2</sup>
4. On 30 January 2017, the Defence filed *Meas Muth’s Request for Investigative Action Concerning an Unrecorded Interaction with a Witness and Request to Revise Written Record of Witness Interview* (“Second Defence Request”).<sup>3</sup>
5. On 9 February 2017, the International Co-Prosecutor (“ICP”) filed the *Request for Investigative Action in Case 003* (“First ICP Request”).<sup>4</sup> The ICP also filed the *Request for Investigative Action to Place Materials onto Case File 003* on the same day (“Second ICP Request”).<sup>5</sup>
6. On 16 February 2017 the Defence responded to the First ICP Request.<sup>6</sup>
7. On 21 February 2017 the Defence responded to the Second ICP Request.<sup>7</sup>
8. On 19 April 2017, I issued a decision on the First ICP Request (“the First Decision”).<sup>8</sup>
9. On 28 April 2017 I issued a decision on the Second ICP Request (“the Second Decision”).<sup>9</sup>
10. On 1 May 2017, the Defence filed *Meas Muth’s Appeal against the International Co-Investigating Judge’s Notification on the Interpretation of ‘Attack against the Civilian Population’ in the Context of Crimes against Humanity with regard to a*

<sup>1</sup> Case File No. 003-D225, *Notice of Conclusion of Judicial Investigation Against Meas Muth*, 10 January 2017.

<sup>2</sup> Case File No. 003-D227, *Meas Muth’s Request for Investigative Action Regarding D114/174, D114/184, and related Witness Interviews and the Potential use of Torture-Tainted Evidence*, 25 January 2017.

<sup>3</sup> Case File No. 003-D229, *Meas Muth’s Request for Investigative Action Concerning an Unrecorded Interaction with a Witness and Request to Revise Written Record of Witness Interview*, 26 January 2017.

<sup>4</sup> Case File No. 003-D233, *International Co-Prosecutor’s Request for Investigative Action in Case 003*, 9 February 2017.

<sup>5</sup> Case File No. 003-D234, *International Co-Prosecutor’s Request for Investigative Action to Place Materials onto Case File 003*, 9 February 2017.

<sup>6</sup> Case File No. 003-D233/1, *Meas Muth’s Response to the International Co-Prosecutor’s Request for Investigative Action in Case 003*, 16 February 2017.

<sup>7</sup> Case File no. 003-D234/1, *Meas Muth’s Response to the International Co-Prosecutor’s Request for Investigative Action to Place Materials onto Case File 003*, 17 February 2017.

<sup>8</sup> Case File No. 003-D233/2, *Decision on International Co-Prosecutor’s Request for Investigative Action in Case 003*, 19 April 2017.

<sup>9</sup> Case File No. 003-D234/2, *Decision on international Co-Prosecutor’s request for investigative action to place materials onto case file 003*, 28 April 2017.



*State's or Regime's Own Armed Forces* ("Defence Appeal").<sup>10</sup> The Defence Appeal is currently pending before the Pre-Trial Chamber.

11. On 2 May 2017, the Defence filed *Meas Muth's Request to Update Case File with Revised Versions of Case 002 Transcripts*<sup>11</sup> ("Third Defence Request"). The CIJs remain seized of the Third Defence Request.
12. On 24 May 2017, I issued a consolidated decision on the First and Second Defence Requests.<sup>12</sup>

## II. DISCUSSION

### A. Further Investigative Action Undertaken

13. Pursuant to the First Decision, two witnesses were interviewed in relation to the presence of foreign prisoners and members of Divisions 164 and 117 at S-21.<sup>13</sup> Two witnesses were also interviewed in relation to forced marriage.<sup>14</sup> Attempts were made to interview a Division 164 cadre identified by Meas Muth but, due to medical issues, the witness could not be interviewed.<sup>15</sup> Finally, I placed a relevant documentary film and its transcript on the Case File.<sup>16</sup>
14. Pursuant to the Second Decision, documents pertaining to: (i) international armed conflict, (ii) policies of the Communist Party of Kampuchea, (iii) communications, (iv) S-21, (v) geography, and (vi) Case 002/02 evidence relevant to Case 003, were placed on the Case File.<sup>17</sup>
15. The Third Defence Request does not fall within the category of "*further investigative action*" that may be requested pursuant to Internal Rule 66(1) and therefore any action that I may order be undertaken in relation to the Third Defence Request will not re-open the investigation.
16. Following the expiry of the deadline to file further requests for investigative action, and the completion of the further investigative action pursuant to the First Decision and the Second Decision, I consider that the judicial investigation against Meas Muth has been concluded.

### B. Subsequent Rule 66(1) Notification and Time for Further Investigative Requests

17. Internal Rule 66(1) mandates that upon issuance of a notice of closure, the parties shall have 15 days to request further investigative action. For the reasons stated by

<sup>10</sup> Case File No. 003-D191/18/1/4, *Meas Muth's Appeal Against the International Co-Investigating Judge's Notification on the Interpretation of 'Attack Against the Civilian Population' in the Context of Crimes Against Humanity with regard to a State's or Regime's Own Armed Forces*, 1 May 2017.

<sup>11</sup> Case File No. 003-D247, *Meas Muth's request to update case file with revised versions of case 002 transcripts*, 02 May 2017.

<sup>12</sup> Case File No. 003-D251, *Consolidated Decision on Meas Muth's Requests for Investigative Action Regarding Potential Use of Torture-Tainted Evidence*, 24 May 2017.

<sup>13</sup> First Decision, paras 38-39.

<sup>14</sup> First Decision, paras 45-50.

<sup>15</sup> First Decision, para 44.

<sup>16</sup> First Decision, para 51-53.

<sup>17</sup> Second Decision, paras 29-43.



both CIJs in the notice of closure in Case 004/2, no further opportunity to request investigative action will be afforded to the parties following this second notice.<sup>18</sup>

**FOR THE FOREGOING REASONS, I:**

18. **NOTIFY** the parties that I consider that the investigation against Meas Muth has been concluded.
19. **INFORM** the parties that no further requests for investigative action may be filed at this stage and will not be entertained.

This Notice is filed in English, with a Khmer translation to follow.

Dated 24 May 2017, Phnom Penh



Judge Michael Bohlander  
 សម្រេច/ក្រុមស៊ើបអង្កេតអន្តរជាតិ  
 International Co-Investigating Judge  
 Co-juge d'instruction international

<sup>18</sup> Case File No. 004/2-D334/2, [REDACTED] *Second Notice of Conclusion of Judicial Investigation against Ao An*, 29 March 2017, paras 12-16.