



**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

**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: **16 September 2021**  
Language(s): **Khmer and English**  
Classification: **PUBLIC**

<b>ឯកសារដើម</b>
<b>ORIGINAL/ORIGINAL</b>
ថ្ងៃ ខែ ឆ្នាំ (Date): 16-Sept-2021, 09:25
CMS/CFO: Sann Rada

**ORDER TO FILE SUBMISSIONS  
ON RESIDUAL JURISDICTION TO TERMINATE CASE 003**

**Distribution:**

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On 8 September 2021, the Pre-Trial Chamber (“PTC”) issued its unanimous consolidated decision (“Decision”) on the requests (“Requests”) by the International Co-Prosecutor (“ICP”) and the Defence for Meas Muth (“Defence”), in which it declared both inadmissible because the PTC had already ruled on the issues raised in its considerations of 7 April 2021 (“Considerations”).

2. The PTC explicitly and unanimously declared in para. 77 of the Decision that it had been unable to reach a supermajority in the Considerations on the questions raised again by the Requests. Any argument that five judges upheld the indictment of the International Co-Investigating Judge (“ICIJ”) is therefore moot by the PTC’s own words.
3. The PTC also explained that by merely issuing the Considerations, representing the individual views of the judges, it had fulfilled its duty as an appellate chamber and there was no requirement for it to reach a joint decision (paras. 69 – 77).
4. This runs counter to the explicit finding by the Supreme Court Chamber (“SCC”) in Case 004/2.
5. We had put the parties on notice in para. 42 of our decision of 20 May 2021 that if no other judicial body in the Court was willing to take up the baton and bring the case to a conclusion, we would entertain or request submissions on our residual jurisdiction to terminate the case.
6. That time has now come. The case has now been before the PTC twice and all relevant legal issues have been debated at length by the parties; there is no new aspect likely to arise. The only issue that remains to be determined is whether we have residual jurisdiction to terminate the case.
7. There is, however, still the possibility that the ICP might wish to seize the SCC with a request for termination as in Case 004/2.



**FOR THESE REASONS, we<sup>1</sup>**

- **REQUEST** the ICP to declare within one week from the date of the notification of this order whether she intends to seize the SCC with the case, and if not,
- **ORDER** the parties to submit any comments they may have on the sole issue of jurisdiction within three weeks from the date of notification of this order.
- **ORDER** that the submissions – not exceeding 15 pages in the English version – shall be filed in English and Khmer simultaneously, and that no extensions of time or filing in one language shall be permitted.
- **ORDER** that no responses and replies shall be permitted.

Dated 16 September 2021, Phnom Penh

**សហចៅក្រមស៊ើបអង្កេត**

Co-Investigating Judges

Co-juges d’instruction

YOU Bunleng

Michael Bohlander




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<sup>1</sup> While the CIJs are issuing this order jointly, the NCIJ notes, for the record, that documents placed on the case file should be numbered sequentially from the last documents placed before the resignation of Judge Siegfried Blunk, without including in the count orders and decisions issued by Reserve CIJ Laurent Kasper-Ansermet.